House of Representatives

File No. 758

General Assembly

February Session, 2016 ***(Reprint of File No. 417)***

Substitute House Bill No. 5571
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
April 29, 2016

AN ACT CONCERNING BANKING AND CONSUMER PROTECTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 36a-448a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) The governing board of a Connecticut credit union shall consist of an odd number of directors, at least five in number. The initial governing board shall be elected at the organization meeting of the Connecticut credit union as provided in subsection (e) of section 36a-437a, and thereafter by the members of the Connecticut credit union at the annual meeting as provided in section 36a-440a. **[**Any director elected or appointed to serve on the governing board of a troubled Connecticut credit union shall be approved by the commissioner prior to any such service.**]** The commissioner shall approve the election, appointment or employment of any director or potential member of the senior management of a troubled Connecticut credit union prior to such director or member taking such position. For the purposes of this

subsection, "troubled Connecticut credit union" means any Connecticut credit union that, in the written opinion of the commissioner is (1) in danger of becoming insolvent, (2) not likely to be able to meet the demands of its members, or pay its obligations in the normal course of business or is likely to incur losses that may deplete all or substantially all of its capital, or (3) being operated in an unsafe and unsound manner.

Sec. 2. Subdivision (1) of subsection (a) of section 36a-34 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(1) "Eligible entity" means any entity that (A) received a composite rating of one or two under the Uniform Financial Institutions Rating System as a result of its most recent safety and soundness examination; (B) received a compliance rating of one or two on its most recent compliance examination; (C) received a satisfactory or better rating on its most recent community reinvestment performance evaluation; (D) is well capitalized**,** **[**in that it (i) has a total risk-based capital ratio of ten per cent or greater; (ii) has a tier one risk-based capital ratio of six per cent or greater; (iii) has a tier one leverage capital ratio of five per cent or greater; and (iv) is not subject to any written agreement, order, capital directive or prompt corrective action directive issued pursuant to Section 8 or 38 of the Federal Deposit Insurance Act, 12 USC 1818 and 12 USC 1831o, respectively, as amended from time to time, the International Lending Supervision Act, 12 USC 3907, as amended from time to time, the Home Owners' Loan Act, 12 USC 1461, as amended from time to time, or any regulation thereunder, to meet and maintain a specific capital level for any capital measure**]** <u>as defined in 12 CFR 324.403(b)(1), as amended from time to time</u>; (E) is not subject to a cease and desist order, consent order, prompt correction action directive, written agreement, memorandum of understanding or other administrative agreement with its primary state or federal banking regulator; and (F) is not subject to any formal or informal administrative action by its primary state or federal banking regulator.

Sec. 3. Subdivision (1) of subsection (b) of section 36a-333 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(b) (1) Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of five per cent or greater or a risk-based capital ratio of ten per cent or greater shall transfer eligible collateral maintained under subsection (a) of this section to its own trust department, provided such trust department is located in this state unless the commissioner approves otherwise, to the trust department of another financial institution, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Each qualified public depository that is a bank or out-of-state bank having a tier one leverage ratio of less than five per cent or a risk-based capital ratio of less than ten per cent and each qualified public depository that is a credit union or federal credit union shall transfer eligible collateral maintained under subsection (a) of this section to the trust department of a financial institution that is not owned or controlled by the depository or by a holding company owning or controlling the depository, provided such eligible collateral shall be maintained in such other financial institution's trust department located in this state unless the commissioner approves otherwise, or to a federal reserve bank or federal home loan bank. Such transfers of eligible collateral shall be made in a manner prescribed by the commissioner. The qualified public depository shall determine and adjust the market value of such eligible collateral on a monthly basis. Without the requirement of any further action, the commissioner shall have, for the benefit of public depositors, a perfected security interest in all such eligible collateral held in such segregated trust accounts. **[**, granted pursuant to and in accordance with the terms of the agreement between the public depositor and the qualified public depository.**]** Such security interest shall have priority over all other perfected security interests and liens. The commissioner may, at any time,

require the depository to value the collateral more frequently than monthly if the commissioner reasonably determines that such valuation is necessary for the protection of public deposits. Each holder of eligible collateral shall file with the commissioner, at the end of each calendar quarter, a report with the CUSIP number, description and par value of each investment it holds as eligible collateral.

Sec. 4. Subsection (q) of section 36a-70 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(q) (1) As used in this subsection, "bankers' bank" means a Connecticut bank that is (A) owned exclusively by (i) any combination of banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions, **[**having their principal office in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island or Vermont**]** or (ii) a bank holding company that is owned exclusively by any such combination, and (B) **[**organized to engage**]** engaged exclusively in providing services for, or that indirectly benefit, other banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions and their directors, officers and employees.

(2) One or more persons may organize a bankers' bank in accordance with the provisions of this section, except that subsections (g) and (h) of this section shall not apply. The approving authority for a bankers' bank shall be the commissioner acting alone. Before granting a temporary certificate of authority in the case of an application to organize a bankers' bank, the approving authority shall consider (A) whether the proposed bankers' bank will facilitate the provision of services that such banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions would not otherwise be able to readily obtain, and (B) the character and experience of the proposed directors and officers. The application to organize a bankers' bank shall be approved if the approving authority determines that the interest of the public will be directly or indirectly

served to advantage by the establishment of the proposed bankers' bank, and the proposed directors possess capacity and fitness for the duties and responsibilities with which they will be charged.

(3) A bankers' bank shall have all of the powers of and be subject to all of the requirements applicable to a Connecticut bank under this title which are not inconsistent with this subsection, except **[**: (A) A bankers' bank may only provide services for, or that indirectly benefit, other banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions and for the directors, officers and employees of such banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions; (B) only banks, out-of-state banks, Connecticut credit unions, federal credit unions, or out-of-state credit unions having their principal office in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island or Vermont may own the capital stock of or otherwise invest in a bankers' bank; (C) upon**]** to the extent the commissioner limits such powers by regulation. Upon the written request of a bankers' bank, the commissioner may waive specific requirements of this title and the regulations adopted thereunder if the commissioner finds that **[**(i)**]** (A) the requirement pertains primarily to banks that provide retail or consumer banking services and is inconsistent with this subsection, and **[**(ii)**]** (B) the requirement may impede the ability of the bankers' bank to compete or to provide desired services to its market provided, any such waiver and the commissioner's findings shall be in writing and shall be made available for public inspection. **[**; and (D) the commissioner may, by regulation, limit the powers that may be exercised by a bankers' bank.**]**

(4) The commissioner may adopt regulations, in accordance with chapter 54, to administer the provisions of this subsection.

Sec. 5. Subsection (a) of section 36a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Notwithstanding any provision of state law and except as provided in subsections (b) and (d) of this section and subdivision (2) of subsection (a) of section 36a-534b, the following records of the Department of Banking shall not be disclosed by the commissioner or any employee of the Department of Banking, or be subject to public inspection or discovery:

(1) Examination and investigation reports and information contained in or derived from such reports, including examination reports prepared by the commissioner or prepared on behalf of or for the use of the commissioner;

(2) Confidential supervisory or investigative information and records obtained **[**from**]** or collected by a state, federal or foreign regulatory or law enforcement agency;

(3) Information obtained, collected or prepared in connection with examinations, inspections or investigations, and complaints from the public received by the Department of Banking, if such records are protected from disclosure under federal or state law or, in the opinion of the commissioner, such records would disclose, or would reasonably lead to the disclosure of: (A) Investigative information the disclosure of which would be prejudicial to such investigation, until such time as the investigation and all related administrative and legal actions are concluded; (B) personal or financial information, including account or loan information, without the written consent of the person or persons to whom the information pertains; or (C) information that would harm the reputation of any person or affect the safety and soundness of any person whose activities in this state are subject to the supervision of the commissioner, and the disclosure of such information under this subparagraph would not be in the public interest; and

(4) Information obtained, collected or prepared in connection with the organization of an expedited Connecticut bank prior to the issuance of a final certificate of authority to commence the business of

a Connecticut bank pursuant to section 36a-70, as amended by this act.

Sec. 6. (NEW) (*Effective October 1, 2016*) The Banking Commissioner shall designate three Martin Luther King, Jr. Corridors to promote secured and unsecured lending in the state.

Sec. 7. Subsection (a) of section 36a-597 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) No person shall engage in the business of money transmission in this state, or advertise or solicit such services, without a license issued by the commissioner as provided in sections 36a-595 to 36a-612, inclusive, except as an authorized delegate of a person that has been issued a license by the commissioner and in accordance with section 36a-607. A person **[**shall be deemed to be**]** engaged in the business of money transmission is acting in this state under this section if such person: (1) Has a place of business located in this state, (2) receives money or monetary value in this state or from a person located in this state, (3) transmits money or monetary value from a location in this state or to a person located in this state, (4) issues stored value or payment instruments that are sold in this state, or (5) sells stored value or payment instruments in this state. The licensee shall promptly notify the commissioner, in writing, of the termination of the contract between such licensee and authorized delegate.

Sec. 8. Section 36a-716 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) Any mortgage servicer who receives funds from a mortgagor to be held in escrow for payment of taxes and insurance premiums shall: **[**pay**]**

(1) Keep records that (A) reflect the mortgage servicer's handling of each mortgagor's escrow account, which may involve electronic storage, microfiche storage or any method of computerized storage of information, provided the information is readily retrievable, and (B)

shall include, but need not be limited to, the payment of amounts into and from the escrow account and the submission of initial and annual escrow account statements to the mortgagor in accordance with subsections (g) and (i) of 12 CFR 1024.17. Such records shall be maintained for each such account for a period of at least five years after the mortgage servicer last serviced the escrow account.

(2) Pay the taxes and insurance premiums of the mortgagor to the appropriate taxing authority and insurance company in the amount required and at the time such taxes and insurance premiums are due, provided **[**(1)**]** (A) the mortgage servicer has been provided with the tax or insurance bills at least fifteen days prior to the date such taxes and insurance premiums are due, and **[**(2)**]** (B) the mortgagor has paid to the mortgage servicer the amounts required to be paid into the escrow account, as determined by the mortgage servicer, for all amounts scheduled to be paid to the mortgage servicer prior to the date such taxes and insurance premiums are due.

(b) Each mortgage servicer shall, through its own effort and expense, determine and notify the mortgagor of the amounts necessary to be paid into the escrow account to assure that sufficient funds will be available for the payment of such taxes and insurance premiums as of the date such payment is due.

(c) If the amount held in the escrow account as of the date such taxes and insurance premiums are due is insufficient to pay the taxes and insurance premiums despite compliance by the mortgagor with **[**subdivision (2)**]** subparagraph (B) of subdivision (2) of subsection (a) of this section, the mortgage servicer shall pay such taxes and insurance premiums from its own funds. The mortgage servicer shall then give the mortgagor the option of paying the shortage over a period of not less than one year. The mortgage servicer shall not charge or collect interest on such shortage during the one-year period.

(d) Whenever a mortgage servicer licensee receives funds from a mortgagor to be held in escrow for the payment of taxes and

insurance, the mortgage servicer licensee shall deposit or invest such funds in one or more segregated deposit or trust accounts maintained at a federally insured bank, Connecticut credit union, federal credit union or out-of-state bank, which account or accounts shall be reconciled monthly. Such reconciliation may be evidenced by a monthly account statement or statements furnished by the depository institution, provided (1) such account or accounts shall be maintained with the depository institution in a manner that reasonably reflects the fact that the funds held therein are being maintained for escrow purposes, (2) such funds shall not be commingled with funds belonging to the mortgage servicer licensee and may not be used to pay business operating expenses of the mortgage servicer licensee, and (3) the mortgage servicer licensee shall adopt, implement and maintain internal accounting controls that are reasonably designed to ensure compliance with this section. For purposes of this subsection, "mortgage servicer licensee" means a person who is licensed pursuant to section 36a-719 or exempt from licensure pursuant to subdivision (4) or (5) of subsection (b) of section 36a-718.

Sec. 9. Subdivision (1) of section 36b-3 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(1) "Agent" means any individual, other than a broker-dealer, who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities. "Agent" does not include an individual who represents an issuer in (A) effecting transactions in a security exempted by subdivision (1), (2), (3), (4), (6), (9), (10), (11) or (22) of subsection (a) of section 36b-21, (B) effecting transactions exempted by subsection (b) of section 36b-21, except for transactions exempted by subdivisions (10), (13) or (14) of said subsection, (C) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, or (D) effecting transactions in any covered security, except for covered securities within the meaning of Sections 18(b)(2) or **[**18(b)(4)(D)**]** 18(b)(4)(E) of

the Securities Act of 1933. "Agent" does not include such other persons not within the intent of this subdivision as the commissioner may by regulation or order determine. A general partner, officer or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition and any compensation that such person receives is directly or indirectly related to purchases or sales of securities.

Sec. 10. Subsection (a) of section 36b-6 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person shall transact business in this state as a broker-dealer unless such person is registered under sections 36b-2 to 36b-34, inclusive. No person shall transact business in this state as a broker-dealer in contravention of a sanction that is currently effective imposed by the Securities and Exchange Commission or by a self-regulatory organization of which such person is a member if the sanction would prohibit such person from effecting transactions in securities in this state. No individual shall transact business as an agent in this state unless such individual is (1) registered as an agent of the broker-dealer or issuer whom such individual represents in transacting such business, or (2) an associated person who represents a broker-dealer in effecting transactions described in subdivisions **[**(2) and (3) of Section 15(h)**]** (3) and (4) of Section 15(i) of the Securities Exchange Act of 1934. No individual shall transact business in this state as an agent of a broker-dealer in contravention of a sanction that is currently effective imposed by the Securities and Exchange Commission or a self-regulatory organization of which the employing broker-dealer is a member if the sanction would prohibit the individual employed by such broker-dealer from effecting transactions in securities in this state.

Sec. 11. Section 36b-14 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) Every registered investment adviser shall make, keep and preserve such accounts, correspondence, memoranda, papers, books and other records as the commissioner by regulation adopted, in accordance with chapter 54, or order prescribes. All such records shall be preserved for such period as the commissioner by regulation or order prescribes.

(2) Every investment adviser that is registered with the Securities and Exchange Commission or excepted from the definition of investment adviser under Section 202(a)(11) of the Investment Advisers Act of 1940, and every registered broker-dealer, shall make, keep and preserve such accounts, correspondence, memoranda, papers, books and other records as the Securities and Exchange Commission requires. All such records shall be preserved for such period as the Securities and Exchange Commission requires.

(3) Broker-dealer records required to be maintained under subdivision (2) of this subsection may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 if they are readily accessible to the commissioner. Investment adviser records required to be maintained under this section may be stored on microfilm, microfiche or on an electronic data processing system or similar system utilizing an internal memory device provided that a printed copy of any such record is immediately accessible.

(b) (1) Every registered investment adviser shall file such financial reports as the commissioner by regulation prescribes.

(2) Every investment adviser that is registered with the Securities and Exchange Commission or excepted from the definition of investment adviser under Section 202(a)(11) of the Investment Advisers Act of 1940, and, subject to Section **[**15(h)**]** 15(i) of the Securities Exchange Act of 1934, every registered broker-dealer shall file such financial reports as the commissioner by regulation prescribes, except that the commissioner shall not require the filing of

financial reports that are not required to be filed with the Securities and Exchange Commission.

(c) If the information contained in any document filed with the commissioner under this section is or becomes inaccurate or incomplete in any material respect, the person making the filing shall promptly file a correcting amendment unless notification of the correction has been given under sections 36b-2 to 36b-34, inclusive.

(d) All the records of a registered investment adviser and a registered broker-dealer referred to in subsection (a) of this section are subject at any time or from time to time to such reasonable periodic, special or other examinations by the commissioner, within or without this state, as the commissioner deems necessary or appropriate in the public interest or for the protection of investors. Every registered investment adviser and every registered broker-dealer shall keep such records open to examination by the commissioner and, upon the commissioner's request, shall provide copies of any such records to the commissioner. For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as the commissioner deems it practicable in administering this subsection, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any self-regulatory organization.

(e) Subject to Section **[**15(h)**]** 15(i) of the Securities Exchange Act of 1934 or Section 222 of the Investment Advisers Act of 1940, an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser agent may not have custody of funds or securities of a client except under the supervision of an investment adviser. Subject to Section **[**15(h)**]** 15(i) of the Securities Exchange Act of 1934 or Section 222 of the Investment Advisers Act of 1940, the commissioner may, by regulation adopted, in accordance with chapter 54, or order, prohibit, limit or impose conditions on a broker-dealer regarding custody of funds or securities of a customer and on an investment adviser regarding custody of funds or securities of a client.

Sec. 12. Subsection (e) of section 36b-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(e) Any person who offers or sells a security that is a covered security under Section **[**18(b)(4)(D)**]** 18(b)(4)(E) of the Securities Act of 1933 shall file a notice with the commissioner within fifteen days after the first sale of such a security in this state. Such notice shall contain such information as the commissioner may require and shall be accompanied by a consent to service of process as required by subsection (g) of section 36b-33 and a nonrefundable fee of one hundred fifty dollars.

Sec. 13. Subsection (d) of section 36b-31 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(d) Subject to Section **[**15(h)**]** 15(i) of the Securities Exchange Act of 1934 and Section 222 of the Investment Advisers Act of 1940, the commissioner may, by regulation or order, prescribe: (1) The form and content of financial statements required under sections 36b-2 to 36b-34, inclusive; (2) the circumstances under which consolidated financial statements shall be filed; and (3) whether any required financial statements shall be certified by independent certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting principles.

Sec. 14. Section 36a-773 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Every retail seller or sales finance company, if insurance is included in a retail installment contract, shall, within fifteen days after execution of the retail installment contract, send or cause to be sent to the retail buyer a policy or policies or certificate of insurance clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all of the terms, exceptions, limitations, restrictions and conditions of the insurance contract or contracts. **[**of

the insurance.**]** In the event of repossession of goods under section 36a-785, as amended by this act, where the holder of the retail installment contract has received a refund of all or part of the unearned insurance premiums paid by the retail buyer in connection with the retail installment contract, the holder shall apply such amount toward the balance of the retail buyer's obligations under the retail installment contract. For purposes of this section, "unearned insurance premiums" means the premiums that are collected by an insurer in advance, but subject to return if the coverage under the insurance contract or contracts ends before the term covered by the premiums is complete.

Sec. 15. (NEW) (*Effective from passage*) On and after October 1, 2016, a sales finance company, as defined in section 36a-535 of the general statutes, shall acquire and maintain adequate records in the form and manner as the commissioner shall direct in each retail installment contract acquired by purchase, discount, pledge, loan, advance or otherwise, and any application for a retail installment contract, covering the retail sale of a motor vehicle in the state that has been reviewed by the sales finance company or relates to a retail installment contract acquired by the sales finance company, including, but not limited, the: (1) Name, address, income and credit score of the applicant and any coapplicants and, if known, the ethnicity, race and sex of such individuals; (2) type, amount and annual percentage rate of the loan; and (3) disposition of the application. Such records shall be made available to the Banking Commissioner not later than five business days after a request for such records by the commissioner. Each sales finance company shall retain such records for not less than two years after the date of the application for applications that were denied or, for any retail installment contract that was acquired, for not less than two years after the date of final payment or sale or assignment of such contract, whichever occurs first, or such longer period as may be required by any other provision of law. On or before January 30, 2017, each licensee shall provide to the commissioner the records collected between October 1, 2016, to December 31, 2016, inclusive.

Sec. 16. Section 36a-774 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

Every installment loan contract shall be in writing executed by the retail buyer and a copy thereof shall be delivered to such retail buyer at the time of the execution thereof. Within fifteen days after the execution of such installment loan contract, the holder thereof shall send or cause to be sent to the retail buyer a policy or policies or certificates of insurance clearly setting forth the amount of the premium, the kind or kinds of insurance and the scope of the coverage and all of the terms, exceptions, limitations, restrictions and conditions of the insurance contract or contracts. **[**of the insurance.**]** Every installment loan contract for the purchase of consumer goods subject to section 36a-771 and this section shall set forth the information required to be disclosed under sections 36a-675 to 36a-686, inclusive, and the regulations thereunder, using the form, content and terminology provided therein.

Sec. 17. Section 36a-778 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

The holder of any retail installment contract or any installment loan contract shall not receive or collect any charges or expenses for **[**delinquency and collection**]** collecting any delinquent payment, including, but not limited to, any service fees for accepting delinquent payments over the telephone or Internet, except as follows: The holder of a retail installment contract or installment loan contract, **[**other than**]** except a contract for the purchase of a commercial vehicle or an installment loan contract regulated by sections 36a-555 to 36a-573, inclusive, as amended by this act, may collect a delinquency and collection charge for default in the payment of any such contract or installment **[**thereof**]** of such contract, when such default has continued for a period of ten days, such charge not to exceed five per cent of the amount of the installments in default or the sum of ten dollars, whichever is the lesser. **[**; provided this provision shall have no

application to installment loan contracts regulated by sections 36a-555 to 36a-573, inclusive.**]** The holder of any retail installment contract or any installment loan contract for the purchase of a commercial vehicle, as defined in section 36a-770, except an installment loan contract regulated by sections 36a-555 to 36a-573, inclusive, as amended by this act, may collect a delinquency and collection charge for default in the payment of any such contract or installment **[**thereof**]** of such contract, when such default has continued for a period of ten days, such charge not to exceed five per cent of the amount of the installments in default. **[**, provided this provision shall have no application to installment loan contracts regulated by sections 36a-555 to 36a-573, inclusive.**]** In addition to any such delinquency and collection charge, the retail installment contract or the installment loan contract may provide for the payment of attorney's fees not exceeding fifteen per cent of the amount due and payable under such contract when such contract is referred to an attorney, who is not a salaried employee of the holder of the contract, for collection, plus the court costs. The restriction on charges **[**herein provided**]** under this section shall not apply to any expenses permitted under section 36a-785, as amended by this act.

Sec. 18. Section 36a-785 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) When the retail buyer is in default in the payment of any sum due under the retail installment contract or installment loan contract, or in the performance of any other condition that such contract requires **[**him**]** the retail buyer to perform, or in the performance of any promise, the breach of which is by such contract expressly made a ground for the retaking of the goods, the holder of the contract may retake possession **[**thereof**]** of such goods, provided the filing of a petition in bankruptcy under 11 USC Chapter 7 by a retail buyer of a motor vehicle, or such retail buyer's status as a debtor in bankruptcy, shall not be considered a default of a retail installment contract or ground for repossession of such motor vehicle. Unless the goods can be retaken without breach of the peace, **[**it**]** the goods shall be retaken

by legal process, [but nothing herein contained] provided nothing contained in this section shall be construed to authorize a violation of the criminal law. In the case of repossession of any motor vehicle without the knowledge of the retail buyer, the local police department shall be notified of such repossession [within] not later than two hours after repossession. In the absence of a local police department or if the local police department cannot be reached for notification, the state police shall be promptly notified of such repossession.

(b) Not less than ten days prior to the retaking, the holder of such contract [, if he so desires,] may serve upon the retail buyer, personally or by registered or certified mail, a notice of intention to retake the goods on account of the retail buyer's default. The notice shall state [the] that the retail buyer is in default and the period at the end of which such goods will be retaken, and designate (1) the obligations required to be performed in order to cure the default, including the dollar amount of any required payment, and (2) the date by which such obligations must be performed. The notice shall briefly and clearly state [what] the retail buyer's rights under this subsection [will be] in [case] the event such goods are retaken. If the notice is so served and the retail buyer does not perform the conditions and provisions [as to which he is in] required under the contract to cure the default before the day set for retaking, the holder of the contract may retake [said] such goods and hold such goods subject to the provisions of subsections (d), (e), (f), (g) and (h) of this section regarding resale, but without any right of redemption.

(c) If the holder of such contract does not give the notice of intention to retake, described in subsection (b) [, he] of this section, the holder shall retain such goods for fifteen days after the retaking within the state in which [they] such goods were located when retaken. During such period the retail buyer, upon payment or tender of the unaccelerated amount due under such contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in such contract as precedent to the retail buyer's continued possession of such goods, or upon

performance or tender of performance of any other promise for the breach of which such goods were retaken, and upon payment of the actual and reasonable expenses of any retaking and storing, may redeem such goods and become entitled to take possession of **[**the same**]** such goods and to continue in the performance of such contract as if no default had occurred. The holder of such contract shall, **[**within three days of**]** not later than three days after the retaking, furnish or mail, by registered or certified mail, to the last known address of the retail buyer, a written statement of the unaccelerated sum due under such contract and the actual and reasonable expense of any retaking and storing. **[**For failure**]** Failure to furnish or mail such statement as required by this section **[**, the holder of the contract shall forfeit the**]** shall result in forfeiture of the holder's right to claim payment for the actual and reasonable expenses of retaking and storage, and **[**also**]** the holder shall be liable for the actual damages suffered because of such failure. If such goods are perishable so that retention for fifteen days **[**as herein prescribed**]** under this subsection would result in their destruction or substantial injury, the provisions of this subsection shall not apply and the holder of the contract may resell the goods immediately upon such retaking.

(d) If the retail buyer does not redeem such goods within fifteen days after the holder of the contract has retaken possession, the holder of the contract shall sell such goods at public or private sale **[**which sale may be held**]** not less than fifteen days and **[**shall be held**]** not more than one hundred eighty days after the retaking. When the holder of the contract retakes possession by legal process, and an answer is interposed, the holder of the contract may, at **[**his**]** the holder's election, hold such retaken goods for a period not to exceed thirty days after the entry of final judgment by a court of competent jurisdiction entitling the holder of the contract to possession of such goods before holding such resale. The holder of the contract shall give the retail buyer not less than ten days' written notice of the time and place of any public sale, or the time after which any private sale or other intended disposition is to be made, either personally or by

registered mail or by certified mail, [receipted for on mailing] return receipt requested, directed to the retail buyer at [his] such retail buyer's last-known place of business or residence. The holder of the contract may bid for such goods at any public sale. The proceeds of the resale shall be considered to be either the amount paid for such goods at such sale or the fair cash retail market value of such goods at the time of repossession, whichever is the greater, except as otherwise provided in subsection (g) of this section.

(e) Proceeds of the resale shall be applied [(1)] in the following order of priority: (1) First, to the payment of the actual and reasonable expenses [thereof, (2)] of such resale, (2) if, after application pursuant to subdivision (1) of this subsection, there are proceeds remaining, then to the payment of the actual and reasonable expenses of any retaking and storing of said goods, and (3) if, after application pursuant to subdivisions (1) and (2) of this subsection, there are proceeds remaining, then to the satisfaction of the balance due under the contract. [Within thirty days of] Not later than thirty days after the resale, the holder of the contract shall give the retail buyer a written statement itemizing the disposition of the proceeds. Any sum remaining after the satisfaction of such claims shall be paid to the retail buyer.

(f) [Notwithstanding that] Even if the proceeds of the resale are [not sufficient] insufficient to defray the actual and reasonable expenses [thereof] of such resale, and [also] such actual and reasonable expenses of any retaking and storing of such goods and the balance due under the contract, the holder of the contract may not recover the deficiency from the retail buyer or any surety or guarantor for [him] the retail buyer, or from [any one] anyone who has succeeded to the obligations of such retail buyer, except as provided in subsection (g) of this section.

(g) If the goods retaken consist of a motor vehicle the aggregate cash price of which was more than [two] four thousand dollars, the prima facie fair market value of such motor vehicle shall be calculated by

adding together the average trade-in value for [that] such motor vehicle and the [average] highest-stated retail value for [that] such motor vehicle and dividing [that] the sum of such values by two. Such average trade-in value and [average] highest-stated retail value shall be determined by the values as stated in the National Automobile Dealers Association Used Car Guide, Eastern Edition, as of the date of repossession. If an average trade-in value is not stated in said guide, the highest-stated trade-in value stated in said guide for the motor vehicle shall be used. If the goods retaken consist of a boat the aggregate cash price of which was more than [two] four thousand dollars, the prima facie fair market value of such boat shall be calculated by adding together the average trade-in value for [that] such boat and the [average] highest-stated retail value for [that] such boat and dividing [that] the sum of such values by two. Such average trade-in value and [average] highest-stated retail value shall be determined by the values as stated in the National Automobile Dealers Association Appraisal Guide for Boats, Eastern Edition, as of the date of repossession. If an average trade-in value is not stated in said guide, the highest-stated trade-in value stated in said guide for the boat shall be used. In the event that the value of such motor vehicle or boat is not stated in such publication, [then] the fair market value at retail minus the reasonable costs of resale shall be determined by the court. The prima facie evidence of fair market value of such motor vehicle or boat so determined may be rebutted only by direct in-court testimony. If such value of the motor vehicle or boat is less than the balance due under the contract, plus the actual and reasonable expenses of the retaking of possession, the holder of the contract may recover from the retail buyer, or from anyone who has succeeded to [his] such retail buyer's obligations, as a deficiency, the amount by which such liability exceeds such fair market value, as defined in this subsection. If the actual resale price received by the holder exceeds such fair market value, as defined in this subsection, the actual resale price shall govern.

(h) After the holder retakes possession as provided in subsection (a) of this section, or if the holder obtains a prejudgment remedy against

the goods under chapter 903a, the retail buyer or anyone who has succeeded to **[**his**]** such retail buyer's obligations shall not be liable for any balance due, except to the extent permitted by subsection (g) of this section. The holder may seek a monetary judgment on the contract against the retail buyer unless the goods have been repossessed, with or without judicial process. Goods purchased under the contract shall not be executed upon to satisfy such judgment. When such judgment becomes final, the holder's security interest in the goods shall be extinguished. If the contract covers a retail sale of a motor vehicle required to be registered, the holder shall comply with section 14-188.

(i) If the holder of the contract fails to comply with the provisions of subsections (c), (d), (e), (f), (g) and (h) of this section, after retaking the goods, the retail buyer may recover from the holder of the contract **[**his**]** such retail buyer's actual damages, if any, and in no event less than one-fourth of the sum of all payments which have been made under the contract.

(j) No act or agreement of the retail buyer before or at the time of the making of a retail installment contract or installment loan contract nor any agreement or statement by the retail buyer in such contract shall constitute a valid waiver of the provisions of subsections (c), (d), (e), (f), (g), (h) and (i) of this section.

(k) After the delivery of the goods to the retail buyer and prior to any retaking **[**thereof**]** of such goods by the holder of the contract, the risk of injury and loss shall rest upon the retail buyer.

Sec. 19. Section 36a-555 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[No person shall (1) engage in the business of making loans of money or credit; (2) make, offer, broker or assist a borrower in Connecticut to obtain such a loan; or (3) in whole or in part, arrange such loans through a third party or act as an agent for a third party, regardless of whether approval, acceptance or ratification by the third

party is necessary to create a legal obligation for the third party, through any method, including, but not limited to, mail, telephone, Internet or any electronic means, in the amount or to the value of fifteen thousand dollars or less for loans made under section 36a-563 or section 36a-565, and charge, contract for or receive a greater rate of interest, charge or consideration than twelve per cent per annum therefor, unless licensed to do so by the commissioner pursuant to sections 36a-555 to 36a-573, inclusive. The provisions of this section shall not apply to (A) a bank, (B) an out-of-state bank, (C) a Connecticut credit union, (D) a federal credit union, (E) an out-of-state credit union, (F) a savings and loan association wholly owned subsidiary service corporation, (G) a person to the extent that such person makes loans for agricultural, commercial, industrial or governmental use or extends credit through an open-end credit plan, as defined in 15 USC 1602, as amended from time to time, for the retail purchase of consumer goods or services, (H) a mortgage lender or mortgage correspondent lender licensed pursuant to section 36a-489 when making residential mortgage loans, as defined in section 36a-485, or (I) a licensed pawnbroker.**]**

As used in this section and sections 36a-556 to 36a-573, inclusive, as amended by this act:

(1) "Advertise" or "advertising" means any announcement, statement, assertion or representation that is placed before the public in a newspaper, magazine or other publication, in the form of a notice, circular, pamphlet, letter or poster, over any radio or television station, by means of the Internet, by other electronic means of distributing information, by personal contact, or in any other way or medium;

(2) "APR" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act, 15 USC 1601 et seq., as amended from time to time, and the regulations promulgated thereunder, and the "disclosed APR" shall mean the APR disclosed, as applicable, pursuant to 12 CFR Section 1026.6 or 12 CFR Section 1026.18. If more than one APR is disclosed pursuant to 12 CFR

Section 1026.6, the "disclosed APR" shall be the highest APR disclosed pursuant to said section;

(3) "Branch office" means a location other than the main office where the licensee, or any person on behalf of the licensee, will engage in activities that require a small loan license;

(4) "Connecticut borrower" means any borrower who resides in or maintains a domicile in this state and who (A) negotiates or agrees to the terms of the small loan in person, by mail, by telephone or via the Internet while physically present in this state, (B) enters into or executes a small loan agreement with the lender in person, by mail, by telephone or via the Internet while physically present in this state, or (C) makes a payment on the loan in this state. For purposes of this subdivision, "payment on the loan" includes a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution. For purposes of this subdivision, "financial institution" means any bank or credit union chartered or licensed under the laws of this state, any other state or the United States and having its main office or a branch office in this state;

(5) "Control person" means an individual that directly or indirectly exercises control over another person, and includes any person that (A) is a director, general partner or executive officer; (B) in the case of a corporation, directly or indirectly has the right to vote ten per cent or more of a class of any voting security or has the power to sell or direct the sale of ten per cent or more of any class of voting securities; (C) in the case of a limited liability company, is a managing member; or (D) in the case of a partnership, has the right to receive upon dissolution, or has contributed, ten per cent or more of the capital. For purposes of this subdivision, "control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise;

(6) "Generating leads" means (A) engaging in the business of selling

leads for small loans; (B) generating or augmenting leads for small loans for other persons for or with the expectation of compensation or gain; or (C) referring consumers to other persons for a small loan for or with the expectation of compensation or gain for such referral, except "generating leads" shall not include generating or augmenting leads for small loans for an exempt person, as described in subsection (b) of section 36a-557, as amended by this act, using the exempt person's data or customer information;

(7) "Lead" means any information identifying a potential consumer of a small loan;

(8) "Main office" means the main address designated on the system where the licensee, or any person on behalf of the licensee, will engage in activities that require a small loan license;

(9) "Open-end small loan" has the same meaning as "open-end credit", as defined in 12 CFR 1026.2, as amended from time to time;

(10) "Person" means a natural person, corporation, company, limited liability company, partnership or association;

(11) "Small loan" means any loan of money or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the following conditions are present: (A) The amount or value is fifteen thousand dollars or less; and (B) the APR is greater than twelve per cent. For purposes of this subdivision, "future income" means any future potential source of money, and expressly includes, but is not limited to, a future pay or salary, pension or tax refund. For purposes of this section and sections 36a-556 to 36a-573, inclusive, as amended by this act, "small loan" shall not include: (i) A retail installment contract made in accordance with section 36a-772; (ii) a loan or extension of credit for agricultural, commercial, industrial or governmental use; (iii) a residential mortgage loan as defined in section 36a-485; or (iv) an open-end credit account that is accessed by a credit card issued by an exempt entity, as described in subdivision (1) of subsection (b) of section 36a-557, as amended by this act;

(12) "Trigger lead" means a consumer report obtained pursuant to Section 604(C)(1)(B) of the Fair Credit Reporting Act, 15 USC 1681b, where the issuance of the report is triggered by an inquiry made with a consumer reporting agency in response to an application for credit. "Trigger lead" does not include a consumer report obtained by a small loan lender that holds or services existing indebtedness of the applicant who is the subject of the report; and

(13) "Unique identifier" means a number or other identifier assigned by protocols established by the system.

Sec. 20. Section 36a-556 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[Upon the filing of the required application and license fee, the commissioner shall investigate the facts and, if the commissioner finds that (1) the experience, character and general fitness of the applicant, and of the members thereof if the applicant is a partnership, limited liability company or association, and of the officers and directors thereof if the applicant is a corporation, are satisfactory, (2) a license to such applicant will be for the convenience and advantage of the community in which the applicant's business is to be conducted, and (3) the applicant has the capital investment required by this section, the commissioner shall issue a license to the applicant to make loans in accordance with sections 36a-555 to 36a-573, inclusive. If the commissioner fails to make such findings or finds that the applicant made a material misstatement in the application, the commissioner shall not issue a license and shall notify the applicant of the denial and the reasons for such denial. The commissioner may deny an application if the commissioner finds that the applicant or any member, officer, or director of the applicant has been convicted of any misdemeanor involving any aspect of the small loan lender business, or any felony. Any denial of an application by the commissioner shall, when applicable, be subject to the provisions of section 46a-80. Withdrawal of an application for a license shall become effective upon receipt by the commissioner of a notice of intent to withdraw such

application. The commissioner may deny a license up to the date one year after the date the withdrawal became effective. The capital investment shall be not less than twenty-five thousand dollars for each licensed location in a city or town with a population of ten thousand or more inhabitants and ten thousand dollars for each licensed location in a city or town with a smaller population. Population shall be determined according to the last United States census at the time a license is granted.**]**

(a) Without having first obtained a small loan license from the commissioner pursuant to section 36a-565, as amended by this act, no person shall, by any method, including, but not limited to, mail, telephone, Internet or other electronic means, unless exempt pursuant to section 36a-557, as amended by this act:

(1) Make a small loan to a Connecticut borrower;

(2) Offer, solicit, broker, directly or indirectly arrange, place or find a small loan for a prospective Connecticut borrower;

(3) Engage in any other activity intended to assist a prospective Connecticut borrower in obtaining a small loan, including, but not limited to, generating leads;

(4) Receive payments of principal and interest in connection with a small loan made to a Connecticut borrower;

(5) Purchase, acquire or receive assignment of a small loan made to a Connecticut borrower; and

(6) Advertise or cause to be advertised in this state a small loan or any of the services described in subdivisions (1) to (5), inclusive, of this subsection.

(b) No person shall accept any lead, referral or application for a small loan to a prospective Connecticut borrower from a person who is not (1) licensed pursuant to section 36a-565, as amended by this act, or (2) exempt from licensure pursuant to section 36a-557, as amended by

this act.

(c) No person shall sell, transfer, pledge, assign or otherwise dispose of any small loan made to a Connecticut borrower to any person who is not (1) licensed pursuant to section 36a-565, as amended by this act, or (2) exempt from licensure pursuant to section 36a-557, as amended by this act.

Sec. 21. Section 36a-557 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) An application for such license shall be in writing, under oath and in the form prescribed by the commissioner, and shall include (1) the history of criminal convictions of the applicant; the members, if the applicant is a partnership, limited liability company or association; or the officers and directors, if the applicant is a corporation, and (2) sufficient information pertaining to the history of criminal convictions, in a form acceptable to the commissioner, on such applicant, members, officers and directors as the commissioner deems necessary to make the findings under section 36a-556. The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the applicant and of each member, officer and director of the applicant. The commissioner may deem an application for a license as a small loan lender abandoned if the applicant fails to respond to any request for information required under sections 36a-555 to 36a-573, inclusive, or any regulations adopted pursuant to said sections 36a-555 to 36a-573, inclusive. The commissioner shall notify the applicant, in writing, that if such information is not submitted not later than sixty days after such request, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-555 to 36a-573, inclusive.

(b) Withdrawal of an application for a license filed under subsection

(a) of this section shall become effective upon receipt by the commissioner of a notice of intent to withdraw such application. The commissioner may deny a license up to the date one year after the date the withdrawal became effective.**]**

(a) The following persons are exempt from the requirement for licensure set forth in section 36a-556, as amended by this act:

(1) A licensed pawnbroker;

(2) A person licensed as a consumer collection agency in accordance with section 36a-801, as amended by this act, when engaged in the activities of a consumer collection agency in the normal course of business;

(3) A person who services small loans for an exempt person described in subsection (b) of this section, when such exempt person owns the small loans, provided the servicing arrangements include, in addition to receiving payments of principal and interest in connection with the small loans, the provision of accounting, recordkeeping and data processing services;

(4) A person who is a passive buyer of a small loan. For purposes of this subdivision, "passive buyer" means a person who: (A) Has acquired a small loan for investment purposes from a person who is either licensed or exempt from licensure under subdivisions (1) to (3), inclusive, of this subsection; (B) will receive the principal and interest and any other moneys due under the small loan through a person who is either licensed or exempt from licensure under subdivisions (1) to (3), inclusive, of this subsection; and (C) has had and will have no communications of any kind with the Connecticut borrower regarding the small loan it has acquired;

(5) A consumer reporting agency, as defined in Section 603(f) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time, when generating leads; and

(6) A retail seller who offers, extends or facilitates credit through an open-end or closed-end credit plan for the purchase of goods or services from such retail seller.

(b) The following persons are exempt from the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act:

(1) Any bank, out-of-state bank, Connecticut credit union, federal credit union or out-of-state credit union, provided such bank or credit union is federally insured;

(2) Any wholly-owned subsidiary of such bank or credit union; and

(3) Any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

(c) Loans made by an exempt person described in subsection (b) of this section shall be exempt from the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, including, without limitation, the provisions applicable to licensed persons, even if: (1) The exempt person utilizes the services of a person exempt from licensing, or required to be licensed pursuant to section 36a-556, as amended by this act, in connection with the small loans that are made by the exempt person described in subsection (b) of this section; and (2) a person exempt from licensing or required to be licensed pursuant to section 36a-556, as amended by this act, engages in activities intended to assist a prospective Connecticut borrower or a Connecticut borrower in obtaining a small loan that is made or to be made by an exempt person described in subsection (b) of this section. Nothing in this subsection shall be construed as exempting persons required to be licensed pursuant to section 36a-556, as amended by this act, from the requirements to obtain and maintain a license or from the provisions of sections 36a-562 to 36a-573, inclusive, as amended by this act. Notwithstanding the foregoing, no person licensed or required to be licensed under section 36a-556, as amended by this act, shall engage in any of the activities described in subsection (a) of section 36a-556, as amended by this act, for any small loan that has a disclosed APR in

excess of thirty-six per cent if that small loan contains any condition or provision inconsistent with the requirements of subsections (d) to (g), inclusive, of section 36a-558, as amended by this act.

Sec. 22. Section 36a-558 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) Each applicant for a small loan lender license, at the time of making such application, shall pay to the commissioner a license fee of eight hundred dollars, provided if such application is filed not earlier than one year before the date such license will expire, the applicant shall pay to the commissioner a license fee of four hundred dollars. Each such license shall expire at the close of business on September thirtieth of the odd-numbered year following its issuance, unless such license is renewed, provided any license that is renewed effective July 1, 2003, shall expire on September 30, 2005. Each licensee shall, on or before September first of the year in which the license expires, or in the case of a license that expires on June 30, 2003, on or before June 1, 2003, file a renewal application and pay to the commissioner a license fee of eight hundred dollars to renew the license, provided if such application is for renewal of a license that expires on June 30, 2003, the applicant shall pay the commissioner a license fee of nine hundred dollars. Any renewal application filed with the commissioner after September first, or in the case of a license that expires on June 30, 2003, after June 1, 2003, shall be accompanied by a one-hundred-dollar late fee and any such filing shall be deemed to be timely and sufficient for purposes of subsection (b) of section 4-182. Whenever an application for a license, other than a renewal application, is filed under this section by any person who was a licensee and whose license expired less than sixty days prior to the date such application was filed, such application shall be accompanied by a one-hundred-dollar processing fee in addition to the application fee. Each applicant shall pay the expenses of any examination or investigation made under sections 36a-555 to 36a-573, inclusive.

(b) If the commissioner determines that a check filed with the

commissioner to pay a fee under subsection (a) of this section has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51.

(c) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which it was issued. All fees required by this section shall be nonrefundable.**]**

(a) Except as provided in subsection (c) of section 36a-557, as amended by this act, no person licensed or required to be licensed under section 36a-556, as amended by this act, shall engage in any of the activities described in subsection (a) of section 36a-556, as amended by this act, for any small loan that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section.

(b) No person exempt from licensure under section 36a-557, as amended by this act, shall engage in any of the activities described in subdivision (4), (5) or (6) of subsection (a) of section 36a-556, as amended by this act, for any small loan made by a person who was licensed or who was required to be licensed under section 36a-556, as amended by this act, that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section.

(c) (1) Except as the result of a bona fide error or as set forth in subdivision (2) of this subsection, any small loan described in subsection (a) or (b) of this section that contains any condition or provision inconsistent with the requirements in subsections (d) to (g), inclusive, of this section shall not be enforced in this state. Such small loan shall be void and no person shall have the right to collect or

receive any principal, interest, charge or other consideration thereon. Any person attempting to collect or receive principal, interest, charge or other consideration on such small loan shall be subject to the provisions of section 36a-570, as amended by this act.

(2) Subdivision (1) of this subsection shall not apply when: (A) The inconsistent condition or provision is the result of a bona fide error; or (B) the small loan was lawfully made in compliance with a validly enacted licensed loan law of another state to a borrower who was not, at the time of the making of such loan, a Connecticut borrower but who has since become a Connecticut borrower.

(3) For the purposes of this subsection, the term "bona fide error" includes, but is not limited to, clerical, calculation and computer malfunction, programming and printing errors, but does not include an error of legal judgment with respect to a person's obligations under sections 36a-555 to 36a-573, inclusive, as amended by this act, or under regulations implemented pursuant to section 36a-573, as amended by this act.

(d) Small loans that are the subject of the activities set forth in subsections (a) and (b) of this section shall not contain:

(1) For a small loan that is under five thousand dollars, an annual percentage rate that exceeds the maximum annual percentage rate for interest that is permitted with respect to the consumer credit extended under the Military Lending Act, 10 USC 987 et seq., as amended from time to time, or for a small loan that is between five thousand and fifteen thousand dollars, an annual percentage rate that exceeds twenty-five per cent as calculated under the Military Lending Act, 10 USC 987, et seq., as amended from time to time;

(2) For other than an open-end small loan, a provision that increases the interest rate due to default;

(3) A payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance;

(4) A payment schedule with regular periodic payments that cause the principal balance to increase;

(5) A payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;

(6) A prepayment penalty;

(7) An adjustable rate provision;

(8) A waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (A) Utilizes principles that are inconsistent with the law as set forth in the general statutes or common law; or (B) limits any claim or defense the borrower may have;

(9) A call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause;

(10) A security interest, except as provided in subsection (e) of this section; or

(11) Fees or charges of any kind, except as expressly permitted by subsection (e) of this section.

(e) Small loans as described in subsections (a) and (b) of this section may contain provisions:

(1) For late fees, if: (A) Such fees are assessed after an installment remains unpaid for ten or more consecutive days, including Sundays and holidays; (B) such fees do not exceed the lesser of five per cent of the outstanding installment payment, excluding any previously assessed late fees, or a total of twenty-five dollars per month, whichever is less; and (C) no interest is charged on such fees;

(2) Allowing charges for a dishonored check or any other form of returned payment, provided the total fee for such returned payment shall not exceed twenty dollars;

(3) Allowing for collection of deferral charges, but only upon the specific written authorization of the borrower and in a total amount not to exceed the interest due during the applicable billing cycle;

(4) Allowing for the accrual of interest after the maturity date or the deferred maturity date, provided such interest shall not exceed twelve per cent per annum computed on a daily basis on the respective unpaid balances;

(5) Providing for reasonable attorney's fees subject to the conditions and restrictions set forth in section 42-150aa;

(6) Including credit life insurance or credit accident and health insurance subject to the conditions and restrictions set forth in section 36a-559, as amended by this act;

(7) Taking a security interest in a motor vehicle in connection with a closed-end small loan made solely for the purchase or refinancing of such motor vehicle, provided the APR of such loan shall not exceed the rates indicated for the respective classifications of motor vehicles as follows: (A) New motor vehicles, fifteen per cent; (B) used motor vehicles of a model designated by the manufacturer by a year not more than two years prior to the year in which the sale is made, seventeen per cent; and (C) used motor vehicles of a model designated by the manufacturer by a year more than two years prior to the year in which the sale is made, nineteen per cent.

(f) Open-end small loans as described in subsections (a) and (b) of this section shall, in addition to the requirements set forth in subsections (d) and (e) of this section:

(1) Not provide for an advance of money exceeding at any one time an unpaid principal of fifteen thousand dollars;

(2) Provide for payments and credits to be made to the same borrower's account from which advances, interests, charges and costs on such loan are debited;

(3) Provide for interest to be computed on any unpaid principal balance of the account in each billing cycle by one of the following methods: (A) By converting the APR to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the APR by three hundred sixty-five; or (B) by converting the APR to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case (i) the monthly rate is determined by dividing the APR by twelve, and (ii) the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle. In either of such computations, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of such day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day;

(4) Not compound interest or charges by adding any unpaid interest or charges authorized by sections 36a-555 to 36a-573, inclusive, as amended by this act, to the unpaid principal balance of the borrower's account; or

(5) Not include any other fees or charges of any kind, except as expressly permitted by subsection (g) of this section.

(g) Open-end small loans as described in subsections (a) and (b) of this section, in addition to the requirements set forth in subsections (d) to (f), inclusive, of this section, may:

(1) Provide for an annual fee for the privileges made available to the borrower under the open-end loan agreement, provided such annual fee shall not exceed fifty dollars; and

(2) Include credit life insurance or credit accident and health insurance, subject to the conditions and restrictions set forth in section 36a-559, as amended by this act.

(h) No person licensed or required to be licensed under sections 36a-555 to 36a-573, inclusive, as amended by this act, who is engaged in generating leads shall in connection with lead generation activities:

(1) Initiate any outbound telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the prior express written consent of the recipient;

(2) Fail to transmit or cause to transmit the lead generator's name and telephone number to any caller identification service in use by a consumer;

(3) Initiate an outbound telephone call to a consumer's residence between nine o'clock p.m. and eight o'clock a.m. local time at the consumer's location;

(4) Fail to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;

(5) Fail to provide the ability to opt out of any unsolicited advertisement communicated to a consumer via an electronic mail address;

(6) Initiate an unsolicited advertisement via electronic mail to a consumer more than ten business days after the receipt of a request from such consumer to opt out of such unsolicited advertisements;

(7) Use a subject heading or electronic mail address in a commercial electronic mail message that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the sender, contents or subject matter of the message;

(8) Sell, lease, exchange or otherwise transfer or release the

electronic mail address or telephone number of a consumer who has requested to be opted out of future solicitations;

(9) Collect, buy, lease, exchange or otherwise transfer or receive an individual's Social Security number or bank account number;

(10) Use information from a trigger lead to solicit consumers who have opted out of firm offers of credit under the federal Fair Credit Reporting Act;

(11) Initiate a telephone call to a consumer who has placed his or her contact information on a federal or state Do Not Call list, unless the consumer has provided express written consent;

(12) Represent to the public, through advertising or other means of communicating or providing information, including, but not limited to, the use of business cards or stationery, brochures, signs or other promotional items, that such lead generator can or will perform any other activity requiring licensure under title 36a, unless such lead generator is duly licensed to perform such other activity or exempt from such licensure requirements;

(13) Refer applicants to, or receive a fee from, any person who is required to be licensed under title 36a, but was not so licensed as of the time of the performance of such lead generator's services; or

(14) Assist or aid and abet any person in the conduct of business requiring licensure under title 36a when such person does not hold the license required.

Sec. 23. Section 36a-559 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[No license shall be assignable nor shall any license be transferable to cover a place of business not located in either the same or an adjacent city or town. Any change in a licensee's place of business either within the same or to an adjacent city or town shall be in accordance with section 36a-562. The license shall be kept

conspicuously posted in the place of business of the licensee. Every license shall remain in force and effect until the same has been surrendered, revoked or suspended, or has expired in accordance with the provisions of sections 36a-555 to 36a-573, inclusive. Any license which is revoked or suspended shall be immediately surrendered to the commissioner. If any change occurs in the personnel of the partners, principals, directors, officers or managers of any licensee, the licensee shall forthwith notify the commissioner, and the commissioner may require a statement under oath giving such information as the commissioner may reasonably require with respect to such change.**]**

(a) Subject to the conditions provided in this section, insurance may be sold to a Connecticut borrower by a licensee at the request of the borrower (1) for insuring the life of persons obligated on a small loan pursuant to sections 38a-645 to 38a-658, inclusive, and (2) providing accident and health insurance covering one person on a small loan pursuant to sections 38a-645 to 38a-658, inclusive. In the case of credit life insurance sold under subdivision (1) of this subsection, the amount of the insurance shall be sufficient to pay the total balance of the loan due on the date of the insured's death. Credit accident and health insurance sold under subdivision (2) of this subsection shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than fourteen days, except that it may provide for retroactive coverage if the disability continues for the period stated in the policy. Irrespective of the number of obligors, only one obligor may be insured, except that life insurance may cover both a borrower and such borrower's spouse where both are obligors on a small loan. A licensee shall not require the purchase of insurance as a condition precedent to the making of a small loan. A licensee shall, both verbally and in writing, inform the borrower prior to entering into any small loan contract of his or her right not to purchase credit insurance. In order to be excluded from the APR calculation, the charge for insurance shall be reasonable, the licensee may not receive any direct or indirect compensation relating to the sale of the insurance and the charge for the insurance may not be paid to an affiliate of the licensee.

(b) If a borrower obtains credit accident and health insurance, the borrower shall have the right to cancel such credit accident and health insurance at any time by giving written notice of cancellation to the licensee. Notification of this right shall be made in the borrower's insurance election. All persons obligated on the loan shall agree, in writing, to the cancellation and return all certificates of insurance. Upon cancellation, the licensee shall, at the licensee's option, either refund the insurance charges to the borrower or apply them to the unpaid balance of the loan.

(c) For the purposes of this section, in the case of an open-end small loan, the additional charge for credit life insurance or credit accident and health insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as such rate may be determined by the Insurance Commissioner, to the unpaid balances in the account, using any of the methods for the calculation of loan charges specified in subdivision (4) of subsection (f) of section 36a-558, as amended by this act. No credit life insurance or credit accident and health insurance written in connection with an open-end small loan shall be cancelled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless (1) one or more of such payments is past due for a period of ninety days or more, and (2) the licensee advances to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited from the borrower's account. Any cancellation shall be effective at the end of the billing cycle in which the notice is received and the licensee shall discontinue any further charges for credit accident and health insurance.

Sec. 24. Section 36a-560 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[No licensee shall make any loan provided for by sections 36a-555 to 36a-573, inclusive, under any other name or at any other place of business than that named in the license. Not more than one place of

business shall be maintained under the same license, but the commissioner may issue more than one license to the same licensee upon compliance with the provisions of sections 36a-555 to 36a-573, inclusive, as to each new license. Not later than fifteen days after a licensee ceases to engage in this state in the business of a small loan lender for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall surrender to the commissioner in person or by registered or certified mail its license for each location in which such licensee has ceased to engage in such business.**]**

No licensee shall:

(1) Cause a borrower, including, but not limited to, a comaker or guarantor, to owe at any time more than fifteen thousand dollars in principal on one or more small loans;

(2) Induce or permit a borrower to split or divide any small loan or loans, or induce or permit a borrower to become obligated, directly or indirectly, under more than one contract of loan at the same time, primarily for the purpose of obtaining rates or charges that would otherwise be prohibited by any applicable provision of sections 36a-555 to 36a-573, inclusive, as amended by this act;

(3) Take any (A) confession of judgment, (B) power of attorney, (C) note or promise to pay that does not state the actual amount of the loan, the time period for which the loan is made of the charges for such loan, or (D) instrument related to the loan in which blanks are left to be filled after the loan is made;

(4) Offer the borrower any other product or service for which there is or will ever be any cost to the borrower in connection with a small loan unless (A) permitted by sections 36a-555 to 36a-573, inclusive, as amended by this act, (B) authorized under another license, or by applicable exemption from any requirement for such licensure, to offer such product or services, or (C) if no separate license or exemption therefrom is required to offer such product or services, authorized in

advance, in writing, by the commissioner upon being satisfied that such other product or service is of such a character that the granting of such authority would not permit or easily facilitate evasion of the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, or of any regulations promulgated thereunder; or

(5) Renew or refinance a small loan unless the renewal or refinancing of the loan will result in a distinct advantage to the borrower, provided restoration to a contractually up-to-date condition shall not, in itself, constitute a distinct advantage to the borrower.

Sec. 25. Section 36a-561 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[No licensee shall conduct the business of making loans under the provisions of sections 36a-555 to 36a-573, inclusive, in association or conjunction with any other type of business or within any office or room where any other type of business is solicited or engaged in, except as may be authorized in writing by the commissioner upon being satisfied that such other business is of such a character that the granting of such authority would not permit or easily facilitate evasions of the provisions of sections 36a-555 to 36a-573, inclusive, or of any regulations adopted under section 36a-570.**]**

No person licensed or required to be licensed shall, directly or indirectly:

(1) Assist or aid and abet any person in conduct prohibited by sections 36a-555 to 36a-573, inclusive, as amended by this act;

(2) Employ any scheme, device or artifice to defraud or mislead any person in connection with a small loan;

(3) Make, in any manner, any false, misleading or deceptive statement or representation in connection with a small loan or engage in bait and switch advertising; or

(4) Engage in any unfair or deceptive practice toward any person or

misrepresent or omit any material information in connection with a small loan.

Sec. 26. Section 36a-562 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[Prior to changing a licensee's place of business either within the same city or town or to an adjacent city or town, the licensee shall apply to the commissioner, who shall investigate the facts and, if the commissioner finds (1) that allowing the licensee to engage in business in the proposed location is not detrimental to the convenience and advantage of the community, and (2) that the proposed location is reasonably accessible to borrowers under existing loan contracts, the commissioner shall approve the change. If the commissioner does not so find, the commissioner shall deny the application.**]**

In each case where a license is required by section 36a-556, as amended by this act, the licensee shall have a main office license and may have a branch office license. All offices shall be located in the United States. Each main office shall have a qualified individual, who shall be responsible for supervising all aspects of the licensee's small loan business. Each branch shall have a branch manager, who shall be responsible for supervising all aspects of the branch's small loan business.

Sec. 27. Section 36a-563 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) Every licensee under sections 36a-555 to 36a-573, inclusive, may loan any sum of money not exceeding fifteen thousand dollars, excluding charges, and may charge, contract for and receive thereon charges at a rate not to exceed the following: (1) On any loan which does not exceed one thousand eight hundred dollars, excluding charges, or on any unsecured loan or on any loan secured only by credit life insurance, seventeen dollars per one hundred dollars on that part of the cash advance, not exceeding six hundred dollars, and

eleven dollars per one hundred dollars on any remainder when the loan is made payable over a period of one year, and proportionately at those rates over a longer or shorter term of loan; (2) on a loan which exceeds one thousand eight hundred dollars, excluding charges, and which is secured by property other than credit life insurance, eleven dollars per one hundred dollars on the entire cash advance when the loan is made payable over a period of one year, and proportionately at that rate over a longer or shorter term of loan. Such charges shall be computed at the time the loan is made on the full amount of the cash advance for the full term of the loan contract, notwithstanding any agreement to repay the loan in installments. Such charges shall be added to the cash advance and the resulting sum may become the face amount of the note. All payments made on account of any loan, except those applied to default and deferment charges, shall be deemed to be applied to the unpaid installments in the order in which they are due.

(b) For the purpose of computations, whether at the maximum rate or less, a month shall be that period of time from any date in one month to the corresponding date in the next month, but if there is no such corresponding date, then to the last day of the next month, and a day shall be considered one-thirtieth of a month when such computation is made for a fraction of a month. For loans originally scheduled to be repaid over a period of forty-eight months and fifteen days or less, the portion of the charges applicable to any particular monthly installment period, as originally scheduled or following a deferment, shall bear the same ratio to the total charges, excluding any adjustment made under subsection (c) of this section, as the balance scheduled to be outstanding during that monthly period bears to the sum of all the monthly balances scheduled originally by the contract of loan. For loans originally scheduled to be repaid over a period in excess of forty-eight months and fifteen days, the portion of the charges applicable to any particular monthly installment period, as originally scheduled or following a deferment, shall be the charges which would be incurred for that monthly installment period if the annual percentage rate disclosed to the borrower pursuant to sections

36a-675 to 36a-686, inclusive, were charged, by the actuarial method, on the disclosed amount financed and all payments were made according to schedule.

(c) Notwithstanding the requirement in subsection (a) of this section, a borrower and licensee may agree that the first installment due date may be not more than fifteen days more than one month, and the charge for each day in excess of one month shall be one-thirtieth of the portion of the charges applicable to a first installment period of one month. The charges for the extra days shall be added to the first installment, but shall be excluded in computing deferment charges and refunds. When a loan contract provides for extra days in a first installment period, for the purposes of sections 36a-555 to 36a-573, inclusive, such extra days shall be treated as the first days in the first installment period and the due dates of the remaining installments shall be calculated from the due date of such first installment.

(d) If any installment remains unpaid for ten or more consecutive days, including Sundays and holidays, after it is due, the licensee may charge and collect a default charge not exceeding the lesser of seven dollars and fifty cents or five cents per dollar, or fraction thereof, of such scheduled installment, except a minimum default charge of three dollars may be charged and collected. Default charges may be collected when due or at any time thereafter, but may not be accumulated until the last payment date.

(e) If, as of an installment due date, the payment date of all wholly unpaid installments is deferred one or more full months and the maturity of the contract is extended for a corresponding period, the licensee may charge and collect a deferment charge not exceeding the charge applicable to the first of the installments deferred, multiplied by the number of months in the deferment period. The deferment period is that period during which no payment is made or required by reason of such deferment, except that no deferment made pursuant to this subsection shall extend the maturity of any contract made under sections 36a-555 to 36a-573, inclusive, for more than (1) three months,

for loans originally repayable in twenty-four months or less, (2) five months, for loans originally repayable in more than twenty-four months but not more than forty-eight months, and (3) eight months, for loans originally repayable in more than forty-eight months. The deferment charge may be collected at the time of deferment or at any time thereafter. The portion of the charges contracted for under subsection (a) of this section applicable to each deferred balance and installment period following the deferment period shall remain the same as that applicable to such balance and period under the original contract of loan. No installment on which a default charge has been collected, or on account of which any partial payment has been made, shall be deferred or included in the computation of the deferment charge unless such default charge or partial payment is refunded to the borrower or credited to the deferment charge. Any payment received at the time of deferment may be applied first to the deferment charge and the remainder, if any, applied to the unpaid balance of the contract, but if such payment is sufficient to pay, in addition to the appropriate deferment charge, any installment which is in default and the applicable default charge, it shall be first so applied and any such installment shall not be deferred or subject to the deferment charge. If a loan is prepaid in full during the deferment period, the borrower shall receive, in addition to the refund required under subsection (f) of this section, a refund of that portion of the deferment charge applicable to any unexpired full month or months of such deferment period.

(f) If the contract of loan is prepaid in full by cash, a new loan or otherwise, before the final installment date, the portion of the charges applicable to the full installment periods, as scheduled originally in the loan contract or as rescheduled by reason of any deferment made pursuant to sections 36a-555 to 36a-573, inclusive, following the date of prepayment shall be refunded or credited to the borrower. Where prepayment occurs on other than a monthly installment due date, it shall be deemed to have occurred on the preceding or succeeding installment due date nearest to the date of prepayment. Where prepayment occurs on a date midpoint between the preceding and

succeeding monthly installment due dates, it shall be deemed to have occurred on the preceding monthly due date. In all cases where prepayment occurs before the first monthly installment due date, it shall be deemed to have occurred on the first monthly installment due date. If judgment is obtained before the final installment date, the judgment shall reflect the refund which would be required for prepayment in full as of the date judgment is obtained. No refund of less than one dollar or for partial prepayments need be made.

(g) If part or all of the consideration for a loan contract is the unpaid balance, excluding default charges, of a prior loan with the same licensee, the cash advance under such new loan contract may include the balance of the prior contract which remains after giving the required refund.

(h) In addition to the charges provided for by sections 36a-555 to 36a-573, inclusive, and service charges that are imposed for a check that is dishonored as provided in subsection (i) of section 52-565a, no further or other charge or amount for any examination, service, brokerage, commission or other thing, or otherwise, shall be directly or indirectly charged, contracted for or received. If interest or any other charges in excess of those permitted by said sections are charged, contracted for or received, except as the result of a bona fide error, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest or charges. No person shall owe any licensee, as such, at any time more than fifteen thousand dollars for principal as a borrower, comaker or guarantor for loans made under said sections. No licensee shall induce or permit any borrower or borrowers to split or divide any loan or loans made under said sections, or permit any borrower to become obligated, directly or indirectly, under more than one contract of loan under said sections at the same time primarily for the purpose of obtaining a higher rate of charge than would otherwise be permitted by said sections. No contract made under said sections, except as deferred in accordance with subsection (e) of this section, shall provide for a greater rate of interest than twelve per cent per annum on the balance remaining

unpaid twenty-four months and fifteen days after the date of making such contract if the original cash advance was one thousand dollars or less or thirty-six months and fifteen days if the original cash advance was in excess of one thousand dollars but not in excess of one thousand eight hundred dollars. No contract made under said sections with an original cash advance in excess of one thousand eight hundred dollars, except as deferred in accordance with subsection (e) of this section, shall provide for a greater rate of interest than twelve per cent per annum on the balance remaining unpaid on the scheduled maturity date of said contract. No part of the principal balance remaining unpaid by a borrower twenty-four months and fifteen days after making such contract where the original cash advance was one thousand dollars or less or thirty-six months and fifteen days where the original cash advance was in excess of one thousand dollars but not in excess of one thousand eight hundred dollars, shall directly or indirectly be renewed or refinanced by the lender who made such loan. If the maturity date of a loan made under said sections has been extended by deferred payments, the maximum renewal period that such loan may be extended shall be the number of months such loan is deferred. When a contract is renewed or refinanced prior to twenty-four months and fifteen days where the original cash advance was one thousand dollars or less or thirty-six months and fifteen days where the original cash advance exceeded one thousand dollars but did not exceed one thousand eight hundred dollars, from the date of making such contract, such renewal or refinancing shall, for the purposes of this section, be deemed a separate loan transaction.

(i) Notwithstanding the provisions of subsection (a) of this section, on any loan secured by real property a licensee may include in the amount of the loan the following closing costs, provided such costs are bona fide, reasonable in amount and not assessed for the purpose of circumventing or otherwise limiting any applicable provision of sections 36a-555 to 36a-573, inclusive: (1) Fees or premiums for title examination, abstract of title, title insurance, surveys, or similar purposes; (2) appraisals, if made by a person who is not an employee

or affiliated with the licensee, and (3) fees and taxes paid to public officials for the recording and release of any document related to the real estate security. A licensee may collect costs incurred in the event of foreclosure which shall not include any attorney's fee.

(j) No agreement with respect to a loan under sections 36a-555 to 36a-573, inclusive, may provide for charges resulting from default by the borrower, other than those authorized by said sections.**]**

(a) An application for a small loan license shall be made and processed on the system pursuant to section 36a-24b, in the form prescribed by the commissioner on the system. Each such form shall contain content as set forth by instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purpose of sections 36a-555 to 36a-573, inclusive, as amended by this act. The applicant shall, at a minimum, furnish to the system, in a form prescribed by the system, information concerning the identity of the applicant and any control person of the applicant, the qualified individual and any branch manager, including personal history and experience in a form prescribed by the system and information related to any administrative, civil or criminal findings by any governmental jurisdiction. The commissioner, in accordance with section 29-17a, may conduct a state and national criminal history records check of the applicant and its control persons, qualified individual and branch manager, and, in accordance with section 36a-24b, may require the submission of fingerprints to the Federal Bureau of Investigation or other state, national or international criminal databases and may require control persons, qualified individuals and branch managers to furnish authorization for the system and the commissioner to obtain an independent credit report from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 USC 1681a, as amended from time to time. Applicants may also be required to upload on the system an audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated not later than ninety days after the end of

the applicant's fiscal year. Such financial statement shall include a balance sheet, income statement, statement of cash flows and all relevant notes thereto. If the applicant is a start-up company, only an initial statement of condition shall be required.

(b) The commissioner may deem an application for a small loan license abandoned if the applicant fails to respond to any request for information required under sections 36a-555 to 36a-573, inclusive, as amended by this act, or any regulation adopted pursuant to section 36a-573, as amended by this act. The commissioner shall notify the applicant on the system that if such information is not submitted on or before sixty days after the date of such request, the application shall be deemed abandoned. An application filing fee paid prior to the date an application is deemed abandoned pursuant to this subsection shall not be refunded. Abandonment of an application pursuant to this subsection shall not preclude the applicant from submitting a new application for a license under sections 36a-555 to 36a-573, inclusive, as amended by this act.

Sec. 28. Section 36a-564 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[As used in section 36a-563 and section 36a-568, "cash advance" means the cash or its equivalent received by the borrower or paid out on the borrower's behalf or at the borrower's direction or request.**]**

(a) Each applicant for a small loan license shall pay to the system any required fees or charges and a license fee of four hundred dollars. Each such license shall expire at the close of business on December thirty-first of the year in which the license was approved, unless such license is renewed, and provided any such license that is approved on or after November first shall expire at the close of business on December thirty-first of the year following the year in which it is approved. An application for renewal of a license shall be filed between November first and December thirty-first of the year in which the license expires. Each applicant for renewal of a small loan license

shall pay to the system any required fees or charges and a renewal fee of four hundred dollars.

(b) In accordance with section 36a-27b, the commissioner shall automatically suspend any license if such person receives a deficiency on the system indicating that a required payment was Returned-ACH or returned pursuant to any other term as may be utilized by the system to indicate that payment was not accepted. After the license has been automatically suspended pursuant to this subsection, the commissioner shall give such licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew pursuant to section 36a-570, as amended by this act, and an opportunity for a hearing on such action in accordance with section 36a-51, and require such licensee to take or refrain from taking such action that, in the opinion of the commissioner, will effectuate the purposes of this section.

(c) No abatement of the license fee shall be made if the license is surrendered, revoked or suspended prior to the expiration of the period for which the license was issued. All fees required by this section shall be nonrefundable.

Sec. 29. Section 36a-565 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) "Open-end loan" means a loan made by a licensee under sections 36a-555 to 36a-573, inclusive, pursuant to an agreement between the licensee and the borrower whereby: (1) The licensee may permit the borrower to obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower, not exceeding at any one time an unpaid principal balance of fifteen thousand dollars; (2) the amount of each advance and permitted interest, charges and costs are debited to the borrower's account and payments and other credits are credited to the same account; (3) the interest is computed on the unpaid principal balance or balances of the account

from time to time; (4) the borrower has the privilege of paying the account in full at any time or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement; and (5) the agreement expressly states that it covers open-end loans pursuant to said sections.

(b) "Billing cycle" means the time interval between periodic billing dates. A billing cycle shall be considered monthly if the closing date of the cycle is the same date each month or does not vary by more than four days from such date.

(c) A licensee may make open-end loans and may charge, contract for and receive thereon interest at an annual percentage rate not to exceed nineteen and eight-tenths per cent for any open-end loan agreement entered into on and after July 1, 1991. A licensee may also receive, pursuant to any such agreement entered into on and after July 1, 1991, one or more of the following charges if the agreement so provides: (1) An annual fee not to exceed fifty dollars for the privileges made available to the borrower under the open-end loan agreement; (2) a default charge subject to the conditions and restrictions set forth in subsection (d) of section 36a-563; (3) service charges that are imposed for a check that is dishonored as provided in subsection (i) of section 52-565a; and (4) reasonable attorneys' fees subject to the conditions and restrictions set forth in section 42-150aa. In addition to the charges provided for by this section, no further or other charge or amount for any examination, service, brokerage, commission or other thing, or otherwise, shall be directly or indirectly charged, contracted for or received. If interest or any charges in excess of those permitted by this section are charged, contracted for or received, except as the result of a bona fide error, the contract of loan shall be void and the licensee shall have no right to collect or receive any principal, interest or charges. No person shall owe any licensee, as such, at any time more than fifteen thousand dollars for principal as a borrower, comaker or guarantor for loans made under this section. As used in this section, the term "bona fide error" includes, but shall not be limited to, clerical, calculation, computer malfunction and programming and

printing errors, but does not include an error of legal judgment with respect to a person's obligations under sections 36a-555 to 36a-573, inclusive.

(d) A licensee shall not compound interest or charges by adding any unpaid interest or charges authorized by this section to the unpaid principal balance of the borrower's account.

(e) Interest authorized by this section shall be computed in each billing cycle by any of the following methods: (1) By converting the annual percentage rate to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the annual percentage rate by three hundred and sixty-five; or (2) by converting the annual percentage rate to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is determined by dividing the annual percentage rate by twelve and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

(f) For all of the methods of computation specified in subsection (e) of this section, the billing cycle shall be monthly and the unpaid principal balance on any day shall be determined by adding to any balance unpaid as of the beginning of that day all advances and other permissible amounts charged to the borrower and deducting all payments and other credits made or received that day.

(g) Credit life insurance and credit accident and health insurance may be sold to the borrower on open-end loans subject to the conditions and restrictions set forth in section 36a-566. In the case of credit life insurance, the amount of the insurance shall be sufficient to pay the total balance of the loan due on the date of the insured's death. The additional charge for credit life insurance and credit accident and health insurance shall be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as such rate may

be determined by the Insurance Commissioner, to the unpaid balances in the account, using any of the methods specified in subsection (e) of this section for the calculation of loan charges. No credit life insurance or credit accident and health insurance written in connection with an open-end loan shall be cancelled by the licensee because of delinquency of the borrower in the making of the required minimum payments on the loan unless one or more of such payments is past due for a period of ninety days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during such period, which amounts may be debited to the borrower's account. The borrower shall have the right to cancel credit accident and health insurance at any time by giving written notice of cancellation to the licensee. Such cancellation shall be effective at the end of the billing cycle in which the notice is received and the licensee shall discontinue any further charges for credit accident and health insurance.

(h) No licensee shall take any confession of judgment or any power of attorney. No licensee shall take a mortgage, lien, security interest in or assignment or pledge of household goods or assignment of wages as security for any open-end loan made pursuant to this section. No licensee shall take a security interest in chattels, tangible or intangible personal property, motor vehicles or real property to secure an open-end loan made pursuant to this section.

(i) A copy of the open-end loan agreement shall be delivered by the licensee to the borrower at the time the open-end account is opened.

(j) Sections 36a-563, 36a-567 and 36a-568 shall not apply to open-end loans made in accordance with the provisions of this section.**]**

(a) Upon the filing of the required application and license fee under sections 36a-563 and 36a-564, as amended by this act, the commissioner shall investigate the facts and no license shall be granted unless the commissioner finds that: (1) The experience, character and general fitness of the applicant and its control persons, qualified individual and any branch manager are satisfactory; (2) the activities to

be conducted by the applicant will be for the convenience and advantage of the consumers it seeks to serve; (3) the applicant has available the funds required by subsection (d) of this section; and (4) the applicant and its control persons and any qualified individual and branch manager have not made a material misstatement in the application. If the commissioner fails to make such findings, the commissioner shall not issue a license and shall notify the applicant of the denial and the reasons for such denial.

(b) Notwithstanding the provisions of subsection (a) of this section, the commissioner may deny an application if the applicant or its control persons or qualified individual or branch manager have demonstrated a lack of financial responsibility. For purposes of this subsection, a person has shown that he or she is not financially responsible when such person has shown a disregard in the management of such person's own financial condition. A determination that a person has not shown financial responsibility may include, but is not limited to: (1) Current outstanding judgments, except judgments solely as a result of medical expenses; (2) current outstanding tax liens or other government liens and filings; (3) foreclosures during the three years preceding the date of application for an initial license or renewal of a license; or (4) a pattern of seriously delinquent accounts within the past three years.

(c) Notwithstanding the provision of subsection (a) of this section, and subject to the provisions of section 46a-80, the commissioner may deny an application based on the history of criminal convictions of the applicant or of its control persons or qualified individual or branch manager.

(d) Applicants shall have a minimum of fifty thousand dollars continuously available for each licensed location. The requirement of this subsection may be met by cash on hand, cash in bank or lines of credit.

(e) The minimum standards for renewal of a small loan license shall

include the following: (1) The applicant continues to meet the minimum standards under subsection (a) of this section; (2) the applicant has paid all required fees for renewal of the license; and (3) the applicant has paid any outstanding examination fees or other moneys due to the commissioner.

(f) (1) Withdrawal of an application for a license shall become effective upon the commissioner's acceptance on the system of a withdrawal request. The commissioner may deny a license up to the date one year after the date the withdrawal became effective. Surrender of a license shall be governed by subsection (c) of section 36a-51. Not later than fifteen days after a licensee ceases to engage in this state in the business of a small loan lender for any reason, including a business decision to terminate operations in this state, license revocation, bankruptcy or voluntary dissolution, such licensee shall request surrender of the license on the system for each location in which such licensee has ceased to engage in such business.

(2) If the license expires due to the licensee's failure to renew, the commissioner may institute a revocation or suspension proceeding or issue an order suspending or revoking such license pursuant to section 36a-570, as amended by this act, not later than one year after the date of such expiration.

(g) Every license shall remain in force and effect until the license has been surrendered, revoked or suspended, or has expired in accordance with the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act.

Sec. 30. Section 36a-566 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) Subject to the conditions provided in this section, insurance may be sold to the borrower at his request (1) for insuring the life of persons obligated on a loan pursuant to sections 38a-645 to 38a-658, inclusive, and (2) providing accident and health insurance covering one person on a loan pursuant to sections 38a-645 to 38a-658, inclusive. Credit

accident and health insurance shall not provide indemnity against the risk of a borrower becoming disabled for a period of less than fourteen days, except that it may provide for retroactive coverage if the disability continues for the period stated in the policy. Irrespective of the number of obligors only one obligor may be insured, except that life insurance may cover both a borrower and such borrower's spouse where both are obligors on a loan. A licensee shall not require the purchasing of insurance as a condition precedent to the making of a loan. A licensee shall, both verbally and in writing, inform the borrower prior to his entering into any loan contract of his right not to purchase credit insurance. Any gain or benefit to the licensee directly or indirectly from such insurance or the sale or provision thereof shall not be deemed to be additional or further charges, interest or consideration in connection with a loan made under sections 36a-555 to 36a-573, inclusive, nor a charge in excess of that permitted by said sections.

(b) If a borrower obtains credit accident and health insurance, the borrower shall have the right for a period of fifteen days after the loan is made to cancel the entire insurance coverage. Notification of this right shall be made in the borrower's insurance election. All persons obligated on the loan must agree in writing to the cancellation and return all certificates. Upon cancellation, the licensee shall, at his option, either refund the insurance charges to the borrower or apply them to the unpaid balance of the loan.**]**

(a) No license issued under section 36a-556, as amended by this act, shall be assignable or transferable. Any proposed change in the control persons shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and any change to the control persons shall not occur without the commissioner's approval.

(b) No licensee may use any name other than its legal name or a fictitious name approved by the commissioner, provided such licensee may not use its legal name if the commissioner disapproves of such

name. No licensee shall engage in any activity requiring a small loan license under any other name or at any other place of business than that named in the license. Any proposed change in a licensee's name or to the licensee's place of business shall be the subject of an advance change notice filed on the system at least thirty days prior to the effective date of such change and any change to the licensee's name or place of business shall not be made without the commissioner's approval of such change.

Sec. 31. Section 36a-567 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[Every licensee shall (1) permit payment of the loan in whole or in part prior to its maturity, and (2) upon repayment of the loan in full, mark indelibly each paper signed by the borrower with the word "paid" or "cancelled", and cancel and return any note or, in lieu thereof, transmit or deliver to the borrower a duplicate of the original document clearly identifying the loan, showing such loan has been paid in full and the note cancelled.**]**

(a) A licensee shall file any change in the information most recently submitted in connection with the license with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of such change in the information not later than fifteen days after the licensee has reason to know of such change.

(b) A licensee shall file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the occurrence of any of the following developments not later than fifteen days after the licensee had reason to know of the occurrence: (1) Filing for bankruptcy or the consummation of a corporate restructuring of the licensee; (2) filing of a criminal indictment against the licensee in any way related to the activities of the licensee or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's control persons or qualified individual or branch manager; (3) receiving notification of the

institution of a license denial, cease and desist, suspension or revocation procedures, or other formal or informal action by any governmental agency against the licensee and the reasons therefor; (4) receiving notification of the initiation of any action by the Attorney General or the attorney general of any other state and the reasons therefor; (5) receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement; (6) receiving notification of any of the licensee's control persons or qualified individual or branch manager filing or having filed for bankruptcy; or (7) a decrease in the available funds required by section 36a-565, as amended by this act.

Sec. 32. Section 36a-568 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[No licensee shall take any confession of judgment or any power of attorney, nor shall he take any note or promise to pay that does not state the actual amount of the loan, the time for which it is made and the charges, or any instrument in which blanks are left to be filled after the loan is made. No licensee shall take a mortgage, lien, security interest in or assignment or pledge of household goods or an assignment of wages as security for any loan made under sections 36a-555 to 36a-573, inclusive. A licensee may take a security interest in chattels or personal property other than household goods, except a security interest in an automobile may not be taken as security for any loan where the cash advance is one thousand eight hundred dollars or less. A licensee may take a security interest in real estate on loans made under said sections where the cash advance is in excess of one thousand eight hundred dollars, but may not take such a security interest in real estate where the cash advance is one thousand eight hundred dollars or less. A contract for a loan under said sections shall not originally schedule any repayment of the cash advance over a period in excess of twenty-four months and fifteen days if the amount of the original cash advance was one thousand dollars or less or thirty-six months and fifteen days if the amount of the original cash advance was more than one thousand dollars but not in excess of one thousand

eight hundred dollars or seventy-two months and fifteen days if the amount of the original cash advance was in excess of one thousand eight hundred dollars, and shall be repayable in installments of cash advance and charges combined which are substantially equal in amount or so arranged that no installment is substantially greater in amount than any preceding installment and which are payable at approximately equal intervals not exceeding one month, except that the first installment may be payable not more than one month and fifteen days after the date of such contract. The requirements of section 36a-785 shall apply to any repossession under sections 36a-555 to 36a-573, inclusive, of property other than real estate.**]**

(a) The unique identifier of any small loan licensee shall be clearly shown on the licensee's application forms for a small loan and all of the licensee's solicitations or advertisements, including business cards or Internet web sites, and any other documents as established by rule, regulation or order of the commissioner.

(b) The advertising of a licensee: (1) Shall not include any statement that it is endorsed in any way by this state, except it may include a statement that it is licensed in this state; (2) shall not include any statement or claim which is deceptive, false or misleading; (3) shall be retained for one year from the date of its use; and (4) shall otherwise conform to the requirements of sections 36a-555 to 36a-573, inclusive, as amended by this act, and any regulations issued thereunder.

Sec. 33. Section 36a-569 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[Each licensee shall keep books and records at the place of business specified in the license in such form and in such manner as the commissioner prescribes and shall preserve all books, accounts and records, including cards used in the card system, if any, for at least two years after making the final entry recorded therein. Each such licensee shall, annually, on or before January thirtieth, furnish a sworn statement of the condition of the business of such licensee as of

December thirty-first, together with such other information and statements as the commissioner may, from time to time, require. Each licensee which fails to furnish any such sworn statement or required information in connection with this section, shall pay to the state ten dollars for each day that such failure continues, unless excused by the commissioner for cause. The commissioner may, upon the failure of any such licensee to furnish such sworn statement or other information, after a hearing thereon, cancel the license of such licensee.**]**

(a) Each small loan licensee shall keep adequate books and records at the place of business specified in the license in such form and in such manner as the commissioner prescribes and shall preserve all books, accounts and records for the following time periods: (1) If the licensee offered, solicited, brokered, directly or indirectly arranged, placed, found or generated leads for a small loan, at least two years after the date it engaged in such activity; (2) if the licensee made, owns or services a small loan, at least two years after the date the licensee (A) no longer owns the small loan, or (B) has made the final entry on the small loan.

(b) Each licensee shall make such books and records available at such office or send such books and records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested to do so by the commissioner. Upon request, the commissioner may grant a licensee additional time to make such books and records available or send them to the commissioner.

(c) Licensees shall be required to complete any reports of condition required by the system. Any such reports of condition shall be accurately and timely filed on the system in accordance with the due dates and formats required by the system.

(d) Until such time as information is able to be captured by a

system-based report, each licensee shall furnish annually, on or before January thirtieth, a sworn statement of the condition of the business of such licensee as of the preceding December thirty-first, together with such other information and statements as the commissioner may, from time to time, require. Any licensee that fails to furnish any such report of condition pursuant to subsection (c) of this section or such sworn statement or any other information required by this subsection shall be in violation of this section.

Sec. 34. Section 36a-570 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[The commissioner may adopt such regulations, in accordance with chapter 54, and make such findings as may be necessary for the conduct of the small loan business and its association with other businesses, the conduct of the associated businesses and the enforcement of the provisions of sections 36a-555 to 36a-573, inclusive.**]**

(a) The commissioner may suspend, revoke or refuse to renew any license issued under sections 36a-555 to 36a-573, inclusive, as amended by this act, or take any other action, in accordance with the provisions of section 36a-51, for any reason that would be sufficient grounds for the commissioner to deny an application for such license under sections 36a-555 to 36a-573, inclusive, as amended by this act, or if the commissioner finds that the licensee or any control person of the licensee, qualified individual or branch manager with supervisory authority, trustee, employee or agent of such licensee has done any of the following: (1) Made any material misstatement in the application; (2) committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information, including, but not limited to, any disclosures required by part III of chapter 669 or regulations adopted pursuant thereto; (3) violated any of the provisions of this title, any regulations adopted pursuant thereto or any other law or regulation applicable to the conduct of its business; or

(4) failed to perform any agreement with a licensee or a borrower.

(b) Whenever it appears to the commissioner that (1) any person has violated, is violating or is about to violate any of the provisions of sections 36a-555 to 36a-573, inclusive, as amended by this act, or any regulation adopted pursuant thereto, (2) any person is, was or would be a cause of the violation of any such provision or regulation due to an act or omission such person knew or should have known would contribute to such violation, or (3) any licensee has failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information, including disclosures required by part III of chapter 669 or regulations adopted pursuant thereto, the commissioner may take action against such person or licensee in accordance with sections 36a-50 and 36a-52.

(c) (1) The commissioner may order a licensee to remove any individual conducting business under sections 36a-555 to 36a-573, inclusive, as amended by this act, from office and from employment or retention as an independent contractor in the small loan business in this state whenever the commissioner finds as the result of an investigation that such individual: (A) Has violated any of said sections or any regulations adopted pursuant thereto or any order issued thereunder, or (B) for any reason that would be sufficient grounds for the commissioner to deny a license under section 36a-565, as amended by this act, by sending a notice to such individual by registered or certified mail, return receipt requested or by any express delivery carrier that provides a dated delivery receipt. The notice shall be deemed received by such individual on the earlier of the date of actual receipt or seven days after mailing or sending. Any such notice shall include: (i) A statement of the time, place and nature of the hearing; (ii) a statement of the legal authority and jurisdiction under which the hearing is to be held; (iii) a reference to the particular sections of the general statutes, regulations or orders alleged to have

been violated; (iv) a short and plain statement of the matters asserted; and (v) a statement indicating that such individual may file a written request for a hearing on the matters asserted not later than fourteen days after receipt of the notice. If the commissioner finds that the protection of borrowers requires immediate action, the commissioner may suspend any such individual from office and require such individual to take or refrain from taking such action as, in the opinion of the commissioner, will effectuate the purposes of this subsection, by incorporating a finding to that effect in such notice. The suspension or prohibition shall become effective upon receipt of such notice and, unless stayed by a court, shall remain in effect until the entry of a permanent order or the dismissal of the matters asserted.

(2) If a hearing is requested within the time specified in the notice, the commissioner shall hold a hearing upon the matters asserted in the notice unless such individual fails to appear at the hearing. After the hearing, if the commissioner finds that any of the grounds set forth in subparagraph (A) or (B) of subdivision (1) of this subsection exist with respect to such individual, the commissioner may order a licensee to remove such individual from office and from any employment in the small loan business in this state. If such individual fails to appear at the hearing, the commissioner may order the removal of such individual from office and from employment in the small loan business in this state.

(d) The commissioner may issue a temporary order to cease business under a license if the commissioner determines that such license was issued erroneously. The commissioner shall give the licensee an opportunity for a hearing on such action in accordance with section 36a-52. Such temporary order shall become effective upon receipt by the licensee and, unless set aside or modified by a court, shall remain in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Sec. 35. Section 36a-572 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[The commissioner may suspend, revoke or refuse to renew any license issued under the provisions of section 36a-556 or take any other action, in accordance with section 36a-51, if the commissioner finds that the licensee has violated any provision of sections 36a-555 to 36a-573, inclusive, or any regulation or order lawfully made pursuant to and within the authority of said sections, or if the commissioner finds that any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted a denial of such license.**]**

(a) In addition to any authority provided under this title, the commissioner shall have the authority to conduct investigations and examinations as follows:

(1) For purposes of initial small loan licensing, license renewal, license suspension, license conditioning, license revocation or termination or general or specific inquiry or investigation to determine compliance with sections 36a-555 to 36a-573, inclusive, as amended by this act, the commissioner may access, receive and use any books, accounts, records, files, documents, information or evidence, including, but not limited to: (A) Criminal, civil and administrative history information; (B) personal history and experience information, including independent credit reports obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act, 15 USC 1681a; and (C) any other documents, information or evidence the commissioner deems relevant to the inquiry or investigation regardless of the location, possession, control or custody of such documents, information or evidence.

(2) For the purposes of investigating violations or complaints arising under sections 36a-555 to 36a-573, inclusive, as amended by this act, or for the purposes of examination, the commissioner may review, investigate or examine any licensee, individual or person subject to said sections as often as necessary in order to carry out the purposes of said sections. The commissioner may direct, subpoena or order the attendance of and examine under oath all persons whose testimony

may be required about the loans or the business or subject matter of any such examination or investigation, and may direct, subpoena or order such person to produce books, accounts, records, files and any other documents the commissioner deems relevant to the inquiry.

(b) Each licensee or person subject to sections 36a-555 to 36a-573, inclusive, as amended by this act, shall make or compile reports or prepare other information as directed by the commissioner in order to carry out the purposes of this section, including accounting compilations, information lists and data concerning loan transactions in a format prescribed by the commissioner or such other information the commissioner deems necessary to carry out the purposes of this section.

(c) In making any examination or investigation authorized by this section, the commissioner may control access to any documents and records of the licensee or person under examination or investigation. The commissioner may take possession of the documents and records or place a person in exclusive charge of the documents and records in the location where they are usually kept. During the period of control, no individual or person shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the commissioner. Unless the commissioner has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being, altered or destroyed for purposes of concealing a violation of sections 36a-555 to 36a-573, inclusive, as amended by this act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

(d) In order to carry out the purposes of this section, the commissioner may:

(1) Retain attorneys, accountants or other professionals and specialists as examiners, auditors or investigators to conduct or assist in the conduct of examinations or investigations;

(2) Enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing (A) resources, (B) standardized or uniform methods or procedures, and (C) documents, records, information or evidence obtained under this section;

(3) Use, hire, contract or employ public or privately available analytical systems, methods or software to examine or investigate the licensee, individual or person subject to sections 36a-555 to 36a-573, inclusive, as amended by this act;

(4) Accept and rely on examination or investigation reports made by other government officials, within or without this state; and

(5) Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to sections 36a-555 to 36a-573, inclusive, as amended by this act, in the course of the part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner.

(e) The authority of this section shall remain in effect, whether such licensee, individual or person subject to sections 36a-555 to 36a-573, inclusive, as amended by this act, acts or claims to act under any licensing or registration law of this state or claims to act without such authority.

(f) No licensee or person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records, computer records or other information.

Sec. 36. Section 36a-573 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a) No person, except as authorized by the provisions of sections 36a-555 to 36a-573, inclusive, shall, directly or indirectly, charge, contract for or receive any interest, charge or consideration greater than twelve per cent per annum upon the loan, use or forbearance of money or credit of the amount or value of (1) five thousand dollars or less for any such transaction entered into before October 1, 1997, and (2) fifteen thousand dollars or less for any such transaction entered into on and after October 1, 1997. The provisions of this section shall apply to any person who, as security for any such loan, use or forbearance of money or credit, makes a pretended purchase of property from any person and permits the owner or pledgor to retain the possession thereof, or who, by any device or pretense of charging for the person's services or otherwise, seeks to obtain a greater compensation than twelve per cent per annum. No loan for which a greater rate of interest or charge than is allowed by the provisions of sections 36a-555 to 36a-573, inclusive, has been contracted for or received, wherever made, shall be enforced in this state, and any person in any way participating therein in this state shall be subject to the provisions of said sections, provided, a loan lawfully made after June 5, 1986, in compliance with a validly enacted licensed loan law of another state to a borrower who was not, at the time of the making of such loan, a resident of Connecticut but who has become a resident of Connecticut, may be acquired by a licensee and its interest provision shall be enforced in accordance with its terms.

(b) The provisions of subsection (a) of this section shall apply to any loan made or renewed in this state if the loan is made to a borrower who resides in or maintains a domicile in this state and such borrower (1) negotiates or agrees to the terms of the loan in person, by mail, by telephone or via the Internet while physically present in this state; (2) enters into or executes a loan agreement with the lender in person, by mail, by telephone or via the Internet while physically present in this state; or (3) makes a payment of the loan in this state. As used in this subsection, "payment of the loan" includes a debit on an account the borrower holds in a branch of a financial institution or the use of a

negotiable instrument drawn on an account at a financial institution, and "financial institution" means any bank or credit union chartered or licensed under the laws of this state, any other state or the United States and having its main office or a branch office in this state.

(c) For transactions subject to the provisions of subsection (a) of this section, if any interest, consideration or charges in excess of those permitted are charged, contracted for or received, the contract of loan, use or forbearance of money or credit shall be void and no person shall have the right to collect or receive any principal, interest, charge or other consideration.

(d) No person shall, directly or indirectly, assist or aid and abet any person in conduct prohibited by sections 36a-555 to 36a-573, inclusive.

(e) Whenever it appears to the commissioner that any person has violated the provisions of this section or offered a loan that violates the provisions of this section, the commissioner may investigate, take administrative action or assess civil penalties and restitution in accordance with the provisions of sections 36a-50 and 36a-52.**]**

The commissioner may adopt such regulations, in accordance with chapter 54, as the commissioner deems necessary to administer and enforce the provisions of this section and sections 36a-555 to 36a-572, inclusive, as amended by this act.

Sec. 37. Section 47a-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) As used in this chapter:

(1) "Accrued interest" means the interest due on a security deposit as provided in subsection (i) of this section, compounded annually to the extent applicable.

[(1)**]** (2) "Commissioner" means the Banking Commissioner.

[(2)**]** (3) "Escrow account" means any account at a financial

institution which is not subject to execution by the creditors of the [person in whose name such account is maintained] escrow agent and includes a clients' funds account.

[(3)] (4) "Escrow agent" means the person in whose name an escrow account [, including a clients' funds account,] is maintained.

[(4)] (5) "Financial institution" means any state bank and trust company, national bank, savings bank, federal savings bank, savings and loan association, and federal savings and loan association that is located in this state.

[(5)] (6) "Forwarding address" means the address to which a security deposit may be mailed for delivery to a former tenant.

[(6)] (7) "Landlord" means any landlord of residential real property, and includes (A) any receiver; (B) any [person who is a] successor; [to a landlord or to a landlord's interest;] and (C) any tenant who sublets his premises.

[(7)] (8) "Receiver" means any person who is appointed or authorized by any state, federal or probate court to receive rents from tenants, and includes trustees, executors, administrators, guardians, conservators, receivers, and receivers of rent.

[(8)] (9) "Rent receiver" means a receiver who lacks court authorization to return security deposits and to inspect the premises of tenants and former tenants.

[(9)] (10) "Residential real property" means real property containing one or more residential units, including residential units not owned by the landlord, and containing one or more tenants who paid a security deposit.

[(10)] (11) "Security deposit" means any advance rental payment, [other than] except an advance payment for the first month's rent [and] or a deposit for a key or any special equipment.

[(11)**]** (12) "Successor" **[**to a landlord or to a landlord's interest**]** means any person who succeeds to a landlord's interest whether by purchase, foreclosure or otherwise and includes a receiver.

[(12)**]** (13) "Tenant" means a tenant, as defined in section 47a-1, or a resident, as defined in section 21-64.

[(13)**]** (14) "Tenant's obligations" means (A) the amount of any rental or utility payment due the landlord from a tenant; and (B) a tenant's obligations under the provisions of section 47a-11.

(b) (1) In the case of a tenant under sixty-two years of age, a landlord shall not demand a security deposit in an amount **[**or value in excess of**]** that exceeds two months' **[**periodic rent which may be in addition to the current month's**]** rent.

(2) In the case of a tenant sixty-two years of age or older, a landlord shall not demand a security deposit in an amount **[**or value in excess of**]** that exceeds one month's **[**periodic rent, which may be in addition to the current month's rent. Upon the request of a tenant sixty-two years of age or older, any landlord who has received from such tenant a security deposit in an amount or value in excess of one month's periodic rent shall refund to such tenant the portion of such security deposit that exceeds one month's periodic**]** rent.

(c) Any security deposit paid by a tenant shall remain the property of such tenant in which the landlord **[**and his successor**]** shall have a security interest, as defined in subdivision (35) of subsection (b) of section 42a-1-201, to secure such tenant's obligations. A security deposit shall be exempt from attachment and execution by the creditors of the landlord **[**or his successor**]** and shall not be considered part of the estate of the landlord **[**or his successor**]** in any legal proceeding. Any voluntary or involuntary transfer of a landlord's interest in residential real **[**estate**]** property to a successor shall constitute an assignment to such successor of such landlord's security interest in all security deposits paid by tenants of such transferred residential real **[**estate**]** property.

(d) (1) [Within] Not later than the time specified in [subdivisions] subdivision (2) [and (4)] of this subsection, the person who is the landlord at the time a tenancy is terminated, other than a rent receiver, shall pay to the tenant or former tenant: (A) The amount of any security deposit that was deposited by the tenant with the person who was landlord at the time such security deposit was deposited less the value of any damages [which] that any person who was a landlord of such premises at any time during the tenancy of such tenant has suffered as a result of such tenant's failure to comply with such tenant's obligations; and (B) any accrued interest. [due on such security deposit as required by subsection (i) of this section.] If the landlord at the time of termination of a tenancy is a rent receiver, such rent receiver shall return security deposits in accordance with the provisions of subdivision (3) of this subsection.

(2) Upon termination of a tenancy, any tenant may notify [his] the landlord in writing of such tenant's forwarding address. [Within] Not later than thirty days after termination of a tenancy or fifteen days after receiving written notification of such tenant's forwarding address, whichever is later, each landlord other than a rent receiver shall deliver to the tenant or former tenant at such forwarding address either (A) the full amount of the security deposit paid by such tenant plus accrued interest, [as provided in subsection (i) of this section,] or (B) the balance of [the] such security deposit [paid by such tenant plus] and accrued interest [as provided in subsection (i) of this section] after deduction for any damages suffered by such landlord by reason of such tenant's failure to comply with such tenant's obligations, together with a written statement itemizing the nature and amount of such damages. Any [such] landlord who violates any provision of this subsection shall be liable for twice the amount [or value] of any security deposit paid by such tenant, except that, if the only violation is the failure to deliver the accrued interest, such landlord shall [only] be liable for ten dollars or twice the amount of [such] the accrued interest, whichever is greater.

(3) (A) Any receiver who is authorized by [the] a court [appointing

him receiver**]** to return security deposits and to inspect the premises of any tenant shall pay security deposits and accrued interest in accordance with the provisions of subdivisions (1) and (2) of this subsection from the operating income of such receivership to the extent that any such payments exceed the amount in any escrow accounts for such tenants. (B) Any rent receiver shall present any claim by any tenant for return of a security deposit to the court which authorized **[**him to be a**]** the rent receiver. Such court shall determine the validity of any such claim and shall direct such rent receiver to pay from the escrow account or from the operating income of such property the amount due such tenant as determined by such court.

[(4) Any landlord who does not have written notice of his tenant's or former tenant's forwarding address shall deliver any written statement and security deposit due to the tenant, as required by subdivision (2) of this subsection, within the time required by subdivision (2) of this subsection or within fifteen days after receiving written notice of such tenant's forwarding address, whichever is later.**]**

(e) A successor, other than a receiver, **[**to a landlord's interest in residential real property**]** shall be liable for the claims of tenants of such property for return of any part of such security deposit which is or becomes due to such tenant during the time such successor is a landlord. A receiver's liability for payment of security deposits and interest under this section shall be limited to the balance in any escrow account for such tenants maintained by such receiver in such receivership in accordance with subsection (h) of this section and to the operating income generated in such receivership.

(f) Any landlord who is not a resident of this state shall appoint in writing the Secretary of the State as **[**his**]** the landlord's attorney upon whom all process in any action or proceeding against such landlord may be served.

(g) Any person may bring an action in replevin or for money damages in any court of competent jurisdiction to reclaim any part of

[his] such person's security deposit which may be due. This section does not preclude the landlord or tenant from recovering other damages to which [he] the landlord or tenant may be entitled.

(h) (1) Each landlord shall immediately deposit the entire amount of [all] any security [deposits] deposit received by [him on or after October 1, 1979, from his tenants] such landlord from each tenant into one or more escrow accounts [for such tenants] established or maintained in a financial institution [. Such landlord shall be escrow agent of such account. Within seven days after a written request by the commissioner for the name of each financial institution in which any such escrow accounts are maintained and the account number of each such escrow account, a landlord shall deliver such requested information to the commissioner. (2)] for the benefit of each tenant. Each landlord [and each successor to the landlord's interest] shall maintain each such account as escrow agent and shall not withdraw [the amount of any security deposit or accrued interest on such amount, as provided in subsection (i) of this section, that is in any escrow account] funds from such account except as provided in [this section] subdivision (2) of this subsection.

(2) The escrow agent may withdraw funds from an escrow account to: (A) Disburse the amount of any security deposit and accrued interest due to a tenant pursuant to subsection (d) of this section; (B) disburse interest to a tenant pursuant to subsection (i) of this section; (C) make a transfer of the entire amount of certain security deposits pursuant to subdivision (3) of this subsection; (D) retain interest credited to the account in excess of the amount of interest payable to the tenant under subsection (i) of this section; (E) retain all or any part of a security deposit and accrued interest after termination of tenancy equal to the damages suffered by the landlord by reason of the tenant's failure to comply with such tenant's obligations; (F) disburse all or any part of the security deposit to a tenant at any time during tenancy; or (G) transfer such funds to another financial institution or escrow account, provided such funds remain continuously in an escrow account.

(3) (A) Whenever any real estate is voluntarily or involuntarily transferred from a landlord, other than a receiver, to [his] a successor, including a receiver, such landlord shall withdraw from the escrow account and deliver to [his] the successor the entire amount of security deposits paid by tenants of the property being transferred, plus [accrued] any interest [provided for in] accrued pursuant to subsection (i) of this section. If at the time of transfer of such real estate the funds in such account are commingled with security deposits paid by tenants in real estate not being transferred to such successor, and if at such time the funds in such account are less than the amount of security deposits paid by all tenants whose security deposits are contained in such account, such landlord shall deliver to such successor a pro rata share of security deposits paid by tenants of the real estate being transferred to such successor. [Any successor to a landlord shall immediately deposit the entire amount of funds delivered to him in accordance with this subdivision into an escrow account as provided in subdivision (l) of this subsection and shall maintain such account as escrow agent in accordance with the provisions of this section.] (B) Whenever any real estate is transferred from a receiver to [his] a successor, such receiver shall dispose of the escrow accounts as ordered by the court which appointed [him] such receiver. The order of such court shall provide for the priority of the present and future rights of tenants to security deposits paid by them over the rights of any secured or unsecured creditor of any person and shall provide that the funds in such account shall be delivered to the successor of such receiver for immediate deposit in an escrow account for tenants who paid security deposits.

(4) [No person shall withdraw funds from any escrow account except as follows: (A) Within the time specified in subsection (d) of this section, each escrow agent shall withdraw and disburse the amount of any security deposit due to any tenant upon the termination of such tenancy, in accordance with subsection (d) of this section, together with accrued interest thereon as provided in subsection (i) of this section. (B) At the time provided for in subsection (i) of this section,

each escrow agent shall withdraw from such account and pay to each tenant any accrued interest due and payable to any tenant in accordance with the provisions of said subsection. (C) The escrow agent may withdraw and personally retain interest credited to and not previously withdrawn from such account to the extent such interest exceeds the amount of interest being earned by tenants as provided in subsection (i) of this section. (D) The escrow agent may withdraw and personally retain the amount of damages withheld, in accordance with the provisions of subsection (d) of this section, from payment of a security deposit to a tenant. (E) The escrow agent may at any time during a tenancy withdraw and pay to a tenant all or any part of a security deposit together with accrued interest on such amount as provided in subsection (i) of this section. (F) The escrow agent shall withdraw and disburse funds in accordance with the provisions of subdivision (3) of this subsection. (G) The escrow agent may transfer any escrow account from one financial institution to another and may transfer funds from one escrow account to another provided that all security deposits in escrow accounts remain continuously in escrow accounts.**]** (A) The landlord shall provide each tenant with a written notice stating the amount held for the benefit of the tenant and the name and address of the financial institution at which the tenant's security deposit is being held not later than thirty days after the landlord receives a security deposit from the tenant or the tenant's previous landlord or transfers the security deposit to another financial institution or escrow account.

(B) If the commissioner makes a written request to the landlord for any information related to a tenant's security deposit, including the name of each financial institution in which any escrow account is maintained and the account number of each escrow account, the landlord shall provide such information to the commissioner not later than seven days after the request is made.

(i) **[**(1)**]** On and after July 1, 1993, each landlord other than a landlord of a residential unit in any building owned or controlled by any educational institution and used by such institution for the

purpose of housing students of such institution and their families, and each landlord or owner of a mobile manufactured home or of a mobile manufactured home space or lot or park, as such terms are defined in subdivisions (1), (2) and (3) of section 21-64, shall pay interest on each security deposit received by such landlord at a rate of not less than the average rate paid, as of December 30, 1992, on savings deposits by insured commercial banks as published in the Federal Reserve Board Bulletin rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after January 1, 1994, the rate for each calendar year shall be not less than the deposit index, **[**as defined in subdivision (2) of this subsection, for that year, except in no event shall the rate be less than one and one-half per cent**]** determined under this section as it was in effect during such year. On and after January 1, 2012, the rate for each calendar year shall be not less than the deposit index, as defined in **[**subdivision (2) of this subsection**]** section 38 of this act, for that year. On the anniversary date of the tenancy and annually thereafter, such interest shall be paid to the tenant or resident or credited toward the next rental payment due from the tenant or resident, as the landlord or owner shall determine. If the tenancy is terminated before the anniversary date of such tenancy, or if the landlord or owner returns all or part of a security deposit prior to termination of the tenancy, the landlord or owner shall pay the accrued interest to the tenant or resident not later than thirty days after such termination or return. **[**In any case where a tenant or resident**]** Interest shall not be paid to a tenant for any month in which the tenant has been delinquent for more than ten days in the payment of any monthly rent, **[**such resident or tenant shall forfeit any interest that would otherwise be payable to such resident or tenant for that month, except that there shall be no such forfeiture if, pursuant to a provision of the rental agreement, a late charge is imposed for failure to pay such rent within the time period provided by section 47a-15a**]** unless the landlord imposes a late charge for such delinquency. No landlord **[**or owner**]** shall increase the rent due **[**on any quarters or property subject to the provisions of this section**]** from a tenant because of the requirement that the landlord pay

on interest [be paid on any] the security deposit. [made with respect to such quarters or property.]

[(2) The commissioner shall publish the rate that takes effect July 1, 1993, in the Department of Banking news bulletin no later than July 15, 1993. The deposit index for each calendar year shall be equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board Bulletin in November of the prior year. The commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking news bulletin no later than December fifteenth of the prior year. The commissioner shall also cause such rates to be disseminated in a manner designed to come to the attention of landlords and tenants including, but not limited to, the issuance of press releases and public service announcements, the encouragement of news stories in the mass media and the posting of conspicuous notices at financial institutions. For purposes of this subsection, "Federal Reserve Board Bulletin" means the monthly survey of selected deposits published as a special supplement to the Federal Reserve Statistical Release Publication H.6 published by the Board of Governors of the Federal Reserve System or, if such bulletin is superseded or becomes unavailable, a substantially similar index or publication.]

(j) (1) [The] Except as provided in subdivision (2) of this subsection, the commissioner may receive and investigate complaints regarding any alleged violation of subsections (b), (d), (h) or (i) of this section. [, provided the commissioner shall not have jurisdiction over the refusal or other failure of any landlord to return all or part of a security deposit if such failure results from the landlord's good faith claim that the landlord has suffered damages as a result of a tenant's failure to comply with such tenant's obligations whether or not the existence or amount of alleged damages is disputed by the tenant. For purposes of this section a good faith claim is deemed to be a claim for actual damages suffered by the landlord for which written notification of such damages has been given to the tenant in accordance with the provisions of subdivisions (1), (2) and (4) of subsection (d) of this

section.] For the purposes of such investigation, any person who is or was a landlord shall be subject to the provisions of section 36a-17. [(2)] If the commissioner determines that any landlord has violated any provision of this section over which the commissioner has jurisdiction, the commissioner may, in accordance with section 36a-52, order such person to cease and desist from such practices and to comply with the provisions of this section.

(2) The commissioner shall not have jurisdiction over (A) the failure of a landlord to pay interest to a tenant annually under subsection (i) of this section, or (B) the refusal or other failure of the landlord to return all or part of the security deposit if such failure results from the landlord's good faith claim that such landlord has suffered damages as a result of a tenant's failure to comply with such tenant's obligations, regardless of whether the existence or amount of the alleged damages is disputed by the tenant. For purposes of this section, "good faith claim" means a claim for actual damages suffered by the landlord for which written notification of such damages has been provided to the tenant in accordance with the provisions of subdivision (2) of subsection (d) of this section.

(3) The commissioner may adopt regulations, in accordance with chapter 54, to carry out the purposes of this section.

(k) (1) Any person who is a landlord at the time of termination of a tenancy and who knowingly and wilfully fails to pay all or any part of a security deposit when due shall be subject to a fine of not more than two hundred fifty dollars for each offense, provided it shall be an affirmative defense under this subdivision that such failure was caused by such landlord's good faith belief that he was entitled to deduct the value of damages he has suffered as a result of such tenant's failure to comply with such tenant's obligations.

(2) Any person who knowingly and wilfully violates the provisions of subsection (h) of this section on or after October 1, 1979, shall be subject to a fine of not more than five hundred dollars or

imprisonment of not more than thirty days or both for each offense. It shall be an affirmative defense under the provisions of this subdivision that at the time of the offense, such person leased residential real property to fewer than four tenants who paid a security deposit.

(3) Any person who is a landlord at the time an interest payment is due under the provisions of subsection (i) of this section and who knowingly and wilfully violates the provisions of such subsection shall be subject to a fine of not more than one hundred dollars for each offense.

(4) No financial institution shall be liable for any violation of this section except for any violation in its capacity as a landlord. **[**or successor to a landlord's interest.**]**

(l) Nothing in this section shall be construed as a limitation upon: (1) The power or authority of the state, the Attorney General or the commissioner to seek administrative, legal or equitable relief permitted by the general statutes or at common law; or (2) the right of any tenant to bring a civil action permitted by the general statutes or at common law.

Sec. 38. (NEW) (*Effective July 1, 2016*) The Banking Commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking's news bulletin and on the department's Internet web site not later than December fifteenth of the prior year. The commissioner may also disseminate the deposit index and any information the commissioner deems appropriate in a manner designed to alert the parties that may rely on the deposit index, including the issuance of press releases and public service announcements, the encouragement of news stories in the mass media and the posting of conspicuous notices at financial institutions. For purposes of this section, "deposit index" means (1) the average of the national rates for savings deposits and money market deposits for the last week in November of the prior year, as published by the Federal Deposit Insurance Corporation in accordance with 12 CFR 337.6, as

amended from time to time, or (2) if said corporation no longer publishes such rates, the average of substantially similar national rates for the last week in November of the prior year as published by a federal banking agency.

Sec. 39. Subsection (e) of section 3-70a of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(e) In the case of any claim allowed under this section for property, funds or money delivered to the Treasurer pursuant to subdivision (1) or (2) of subsection (a) of section 3-57a, the Treasurer shall pay such claim with interest as follows: For each calendar year or portion thereof that the property, funds or money has been paid or delivered to the Treasurer, the Treasurer shall pay interest at **[**the deposit index rate determined and published by the Banking Commissioner not later than December fifteenth of the preceding calendar year pursuant to subdivision (2) of subsection (i) of section 47a-21**]** a rate that is not less than the deposit index, as determined under section 38 of this act, for such year. Such interest shall accrue from the date of payment or delivery of the property, funds or money to the Treasurer until the date of payment or delivery of the property, funds or money to the claimant.

Sec. 40. Section 16-262j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) No public service company and no electric supplier shall refuse to provide electric, gas or water service to a residential customer based on the financial inability of such customer to pay a security deposit for such service. The Public Utilities Regulatory Authority shall adopt regulations in accordance with chapter 54 to carry out the provisions of this subsection.

(b) No telephone company and no certified telecommunications provider shall refuse to provide telecommunications service to a candidate or a committee, as defined in section 9-601, on the grounds

that such candidate, such committee or the person acting on behalf of such committee has offered to pay the security deposit for such service with a credit card.

(c) Each public service company, certified telecommunications provider and electric supplier shall pay interest on any security deposit it receives from a customer at the average rate paid, as of December 30, 1992, on savings deposits by insured commercial banks as published in the Federal Reserve Board bulletin and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after January 1, 1994, the rate for each calendar year shall be not less than the deposit index, as determined **[**by the Banking Commissioner and defined in subsection (d) of this section**]** under section 38 of this act, for **[**that**]** such year and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent.

[(d) The deposit index for each calendar year shall be equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board bulletin in November of the prior year. The Banking Commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking news bulletin no later than December fifteenth of the prior year. For purposes of this section, "Federal Reserve Board bulletin" means the monthly survey of selected deposits published as a special supplement to the Federal Reserve Statistical Release Publication H.6 published by the Board of Governors of the Federal Reserve System or, if such bulletin is superseded or becomes unavailable, a substantially similar index or publication.**]**

Sec. 41. Section 37-9 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

The provisions of sections 37-4, 37-5 and 37-6 shall not affect: (1) Any loan made prior to September 12, 1911; (2) any loan made by (A)

any bank, as defined in section 36a-2, or any out-of-state bank, as defined in section 36a-2, that maintains in this state a branch, as defined in section 36a-410, (B) any wholly-owned subsidiary of such bank or out-of-state bank, except a loan for consumer purposes, or (C) any Connecticut credit union, as defined in section 36a-2, or federal credit union, as defined in section 36a-2; (3) any bona fide mortgage of real property for a sum in excess of five thousand dollars; (4) (A) any loan, carrying an annual interest rate of not more than the deposit index, as determined [pursuant to subsection (c) of section 49-2a] under section 38 of this act, for the calendar year in which the loan is made plus seventeen per cent, made to a foreign or domestic corporation, statutory trust, limited liability company, general, limited or limited liability partnership or association organized for a profit or any individual, provided such corporation, trust, company, partnership, association or individual is engaged primarily in commercial, manufacturing, industrial or nonconsumer pursuits and provided further that the funds received by such corporation, trust, company, partnership, association or individual are utilized in such entity's business or investment activities and are not utilized for consumer purposes and provided further that the original indebtedness to be repaid is in excess of ten thousand dollars but less than or equal to two hundred fifty thousand dollars, or, in the case of one or more advances of money of less than ten thousand dollars made pursuant to a revolving loan agreement or similar agreement or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, the total principal amount of all loans owing by the borrower to the lender at the time of any such advance is in excess of ten thousand dollars but less than or equal to two hundred fifty thousand dollars, or (B) any loan made to a foreign or domestic corporation, statutory trust, limited liability company, general, limited or limited liability partnership or association organized for a profit or any individual, provided such corporation, trust, company, partnership, association or individual is engaged primarily in commercial, manufacturing, industrial or nonconsumer pursuits and provided further that the funds received by

such corporation, trust, company, partnership, association or individual are utilized in such entity's business or investment activities and are not utilized for consumer purposes and provided further that the original indebtedness to be repaid is in excess of two hundred fifty thousand dollars, or, in the case of one or more advances of money of less than two hundred fifty thousand dollars made pursuant to a revolving loan agreement or similar agreement or a loan agreement providing for the making of advances to the borrower from time to time up to an aggregate maximum amount, the total principal amount of all loans owing by the borrower to the lender at the time of any such advance is in excess of two hundred fifty thousand dollars; (5) any obligations, including bonds, notes or other obligations, issued by (A) the state, (B) any municipality, including any city, town, borough, district, whether consolidated or not, or other public body corporate, or (C) any authority, instrumentality, public agency or other political subdivision of the state or of a municipality; (6) any loan made by (A) the state, (B) any municipality, including any city, town, borough, district, whether consolidated or not, or other public body corporate, or (C) any authority, instrumentality, public agency or other political subdivision of the state or of a municipality; (7) any loan made for the purpose of financing the purchase of a motor vehicle, a recreational vehicle or a boat, carrying an interest rate of not more than (A) eighteen per cent per annum on loans made on or after July 1, 1981, and prior to October 1, 1985, and (B) on loans made on or after October 1, 1985, and prior to October 1, 1993, (i) sixteen per cent per annum for new motor vehicles, recreational vehicles or boats, and (ii) eighteen per cent per annum for used motor vehicles, recreational vehicles or boats, payable in four or more monthly, quarterly or yearly installments which is unsecured or in which a security interest is taken in such property; (8) any loan by an institution of higher education made to an individual for the purpose of enabling attendance at such institution and carrying an interest rate of not more than the greater of (A) the maximum rate then permitted by section 37-4, or (B) a rate which is not more than five per cent in excess of the discount rate, including any surcharge, on ninety-day commercial paper in effect from time to time

at the federal reserve bank in the federal reserve district where such institution is located; (9) any loan made to a plan participant or beneficiary from an employee pension benefit plan as defined in the Employee Retirement Income Security Act of 1974, Public Law 93-406, as from time to time amended. The provisions of part III of chapter 668 shall not apply to loans made pursuant to subdivision (7) of this section. No provision of this section shall prevent any such bank, out-of-state bank, Connecticut credit union or federal credit union or other lender from recovering by an action at law the amount of the principal and the interest stipulated or interest at the legal rate, if interest is not stipulated, in any negotiable instrument which it has acquired for value and in good faith without notice of illegality in the consideration. For the purpose of this section: "Interest" shall not be construed to include attorney's fees, including preparation of mortgage deed and note, security agreements, title search, waivers and closing fees, survey charges or recording fees paid by the mortgagor or borrower; and "consumer purposes" means the utilization of funds for personal, family or household purchases, acquisitions or uses.

Sec. 42. Section 49-2a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

[(a)**]** On and after July 1, 1993, each state bank and trust company, national banking association, state or federally-chartered savings and loan association, savings bank, insurance company and other mortgagee or mortgage servicer holding funds of a mortgagor in escrow for the payment of taxes and insurance premiums with respect to mortgaged property located in this state shall pay interest on such funds, except as provided in section 49-2c, at a rate of not less than the average rate paid, as of December 30, 1992, on savings deposits by insured commercial banks as published in the Federal Reserve Board Bulletin and rounded to the nearest one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent. On and after January 1, 1994, until September 30, 2012, the rate for each calendar year shall be not less than the deposit index, as **[**defined in subsection (c) of this section for that year and rounded to the nearest

one-tenth of one percentage point, except in no event shall the rate be less than one and one-half per cent**]** determined under this section as it was in effect during such year. On and after October 1, 2012, the rate for each calendar year shall be not less than the deposit index, as **[**defined in subsection (c) of this section**]** determined under section 38 of this act, for **[**that**]** such year and rounded to the nearest one-tenth of one percentage point. Interest payments shall be credited on the thirty-first day of December annually toward the payment of taxes or insurance premiums as the case may be, on such mortgaged property in the ensuing year. If the mortgage debt is paid prior to December thirty-first in any year, the interest to the date of payment shall be paid to the mortgagor. The provisions of this section shall apply only with respect to mortgages on owner-occupied residential property consisting of not more than four living units and housing cooperatives occupied solely by the shareholders thereof. Any mortgagee or mortgage servicer violating the provisions of this section shall be fined not more than one hundred dollars for each offense.

[(b) Each mortgagee or mortgage servicer subject to the provisions of this section may contact the Department of Banking to ascertain the published deposit index to determine the minimum rate paid on funds of a mortgagor held in escrow for the payment of taxes and insurance premiums.

(c) The deposit index for each calendar year shall be equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board Bulletin in November of the prior year. The commissioner shall determine the deposit index for each calendar year and publish such deposit index in the Department of Banking news bulletin no later than December fifteenth of the prior year. For purposes of this section, "Federal Reserve Board Bulletin" means the monthly survey of selected deposits published as a special supplement to the Federal Reserve Statistical Release Publication H.6 published by the Board of Governors of the Federal Reserve System or, if such bulletin is superseded or becomes unavailable, a substantially similar index or publication.**]**

Sec. 43. Subsection (a) of section 49-31p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property that has a return date on or after July 13, 2011, **[**but not later than December 31, 2017,**]** any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to (1) the provision, by such successor in interest, of a notice to vacate to any bona fide tenant not less than ninety days before the effective date of such notice; and (2) the rights of any bona fide tenant, as of the date absolute title vests in such successor in interest (A) under any bona fide lease entered into before such date to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the ninety-day notice under subdivision (1) of this subsection; or (B) without a lease or with a lease terminable at will under state law, subject to the receipt by the tenant of the ninety-day notice under subdivision (1) of this subsection, except that nothing under this section shall affect the requirements for termination of any federally subsidized or state-subsidized tenancy or of any state or local law that provides longer time periods or other additional protections for tenants.

Sec. 44. Section 49-31q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) **[**On or before December 31, 2017, in**]** <u>In</u> the case of an owner who is an immediate successor in interest pursuant to foreclosure during the term of a lease, vacating the property prior to sale shall not constitute other good cause for terminating the lease of a tenant who is a recipient of assistance under 42 USC 1437f(o), the federal Housing Choice Voucher Program, except that the owner may terminate the tenancy effective on the date of transfer of the unit to the owner if the

owner (1) will occupy the unit as a primary residence, and (2) has provided the tenant a notice to vacate at least ninety days before the effective date of such notice.

(b) **[**On or before December 31, 2017, in**]** In the case of any foreclosure on any federally-related mortgage loan, as that term is defined in 12 USC 2602(1), the Real Estate Settlement Procedures Act of 1974, or on any residential real property in which a recipient of assistance under 42 USC 1437(o), the federal Housing Choice Voucher Program, resides, the immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to the lease between the prior owner and the tenant and to the housing assistance payments contract between the prior owner and the public housing agency for the occupied unit, except that this provision and the provisions related to foreclosure in subsection (a) of this section shall not affect any state or local law that provides longer time periods or other additional protections for tenants.

Sec. 45. Subsection (a) of section 36a-65 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) The commissioner shall annually, on or after July first for the fiscal year commencing on said July first, collect pro rata based on asset size from each Connecticut bank and each Connecticut credit union an amount sufficient in the commissioner's judgment to meet the expenses of the Department of Banking, including a reasonable reserve for contingencies, provided the commissioner shall not collect such amount from a newly organized Connecticut credit union until July first following the third full calendar year after issuance by the commissioner of such credit union's certificate of authority. Such assessments and expenses shall not exceed the budget estimates submitted in accordance with section 36a-13.

(2) In addition to any license, investigation or examination fee required under this title, the commissioner may levy assessments on

persons licensed as money transmitters pursuant to sections 36a-595 to 36a-612, inclusive, and persons licensed as student loan servicers pursuant to sections 36a-846 to 36a-854, inclusive. The commissioner shall annually, on or after July first for the fiscal year commencing on said July first, collect such additional amounts sufficient in the commissioner's judgment to meet the expenses of the Department of Banking, including a reasonable reserve for contingencies. Such assessment shall be determined pro rata based on: (A) For licensed money transmitters, dollar volume of money transmissions in this state, and (B) for licensed student loan servicers, dollar volume of student education loans, as defined in section 36a-846, of student loan borrowers serviced. Each such licensee shall pay the commissioner the amount allocated to it not later than the date specified by the commissioner for payment. Failure by a licensee to timely make such payment shall constitute a violation of this section and a basis upon which the commissioner may take action against such licensee pursuant to section 36a-51.

(3) Such assessments may be made more frequently than annually at the discretion of the commissioner. Such assessments for any fiscal year shall be reduced pro rata by the amount of any surplus from the assessments of prior fiscal years, which surplus shall be maintained in accordance with subdivision (4) of subsection (b) of this section. The commissioner may reduce any such assessment collected from a Connecticut bank up to the amount of any assessment for the same fiscal year collected from such bank by another state in which such bank has established a branch, limited branch or mobile branch. The commissioner may reduce any such assessment collected from a Connecticut credit union up to the amount of any assessment for the same fiscal year collected from such credit union by another state in which such credit union has established a branch. Such assessments for any fiscal year shall be a liability of such banks, **[**and**]** credit unions and licensees as of the assessment date. Except as provided in this subsection, such assessments shall not be prorated for any reason.

Sec. 46. Section 36a-719h of the 2016 supplement to the general

statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

No mortgage servicer shall:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead mortgagors or mortgagees or to defraud any person;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of the residential mortgage loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a residential mortgage loan, the terms and conditions of the servicing agreement or the mortgagor's obligations under the residential mortgage loan;

(3) Obtain property by fraud or misrepresentation;

(4) **[**Knowingly misapply or recklessly apply**]** Recklessly apply residential mortgage loan payments or knowingly misapply residential mortgage loan payments to the outstanding balance of a residential mortgage loan;

(5) **[**Knowingly misapply or recklessly apply**]** Recklessly apply payments or knowingly misapply payments to escrow accounts;

(6) Place hazard, homeowners or flood insurance on the mortgaged property when the mortgage servicer **[**knows**]** knew or **[**has reason to know**]** should have known that the mortgagor has an effective policy for such insurance;

(7) Fail to comply with section 49-10a;

(8) Knowingly or recklessly provide inaccurate information to a credit bureau **[**, thereby harming a mortgagor's creditworthiness**]** that results in harm to a mortgagor's creditworthiness;

(9) Fail to report both the favorable and unfavorable payment history of the mortgagor to a nationally recognized consumer credit bureau at least annually if the mortgage servicer regularly reports information to a credit bureau;

(10) Collect private mortgage insurance beyond the date for which private mortgage insurance is required;

(11) Fail to issue a release of mortgage in accordance with section 49-8;

(12) Fail to provide written notice to a mortgagor upon taking action to place hazard, homeowners or flood insurance on the mortgaged property, including a clear and conspicuous statement of the procedures by which the mortgagor may demonstrate that he or she has the required insurance coverage and by which the mortgage servicer shall terminate the insurance coverage placed by it and refund or cancel any insurance premiums and related fees paid by or charged to the mortgagor;

(13) Place hazard, homeowners or flood insurance on a mortgaged property, or require a mortgagor to obtain or maintain such insurance, in excess of the replacement cost of the improvements on the mortgaged property as established by the property insurer;

(14) Fail to provide to the mortgagor a refund of unearned premiums paid by a mortgagor or charged to the mortgagor for hazard, homeowners or flood insurance placed by a mortgagee or the mortgage servicer if the mortgagor provides reasonable proof that the mortgagor has obtained coverage such that the forced placement insurance is no longer necessary and the property is insured. If the mortgagor provides reasonable proof that no lapse in coverage occurred such that the forced placement was not necessary, the mortgage servicer shall promptly refund the entire premium;

(15) Require any amount of funds to be remitted by means more costly to the mortgagor than a bank or certified check or attorney's

check from an attorney's account to be paid by the mortgagor;

(16) Refuse to communicate with an authorized representative of the mortgagor who provides a written authorization signed by the mortgagor, provided the mortgage servicer may adopt procedures reasonably related to verifying that the representative is in fact authorized to act on behalf of the mortgagor;

(17) Conduct any business covered by sections 36a-715 to 36a-719*l*, inclusive, without holding a valid license as required under said sections, or assist or aid and abet any person in the conduct of business without a valid license as required under this title;

(18) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or the system or in connection with any investigation conducted by the Banking Commissioner or another governmental agency; or

(19) Collect, charge, attempt to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by sections 36a-485 to 36a-498f, inclusive, 36a-534a and 36a-534b.

Sec. 47. Section 36a-800 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

As used in **[**sections 36a-800**]** this section, section 52, section 53, of this act and sections 36a-801 to 36a-812, inclusive, as amended by this act, unless the context otherwise requires:

(1) "Branch office" means a location other than the main office at which a licensee or any person on behalf of a licensee acts as a consumer collection agency;

(2) "Consumer collection agency" means any person (A) engaged as a third party in the business of collecting or receiving **[**for**]** payment for others **[**of**]** on any account, bill or other indebtedness from a consumer

debtor, (B) engaged directly or indirectly in the business of collecting on any account, bill or other indebtedness from a consumer debtor for such person's own account if the indebtedness was acquired from another person and if the indebtedness was either delinquent or in default at the time it was acquired, or (C) engaged in the business of collecting or receiving **[**for payment property**]** tax payments, including, but not limited to, property tax and federal income tax payments, from a property tax debtor or federal income tax debtor on behalf of a municipality or the United States Department of the Treasury, including, but not limited to, any person who, by any device, subterfuge or pretense, makes a pretended purchase or takes a pretended assignment of accounts from any other person, **[**or**]** municipality or taxing authority of such indebtedness for the purpose of evading the provisions of **[**sections 36a-800**]** this section and sections 36a-801 to 36a-812, inclusive, as amended by this act. **[**It**]** "Consumer collection agency" includes persons who furnish collection systems carrying a name which simulates the name of a consumer collection agency and who supply forms or form letters to be used by the creditor, even though such forms direct the consumer debtor, **[**or**]** property tax debtor or federal income tax debtor to make payments directly to the creditor rather than to such fictitious agency. "Consumer collection agency" further includes any person who, in attempting to collect or in collecting such person's own accounts or claims from a consumer debtor, uses a fictitious name or any name other than such person's own name which would indicate to the consumer debtor that a third person is collecting or attempting to collect such account or claim. "Consumer collection agency" does not include (i) an individual employed on the staff of a licensed consumer collection agency, or by a creditor who is exempt from licensing, when attempting to collect on behalf of such consumer collection agency, (ii) persons not primarily engaged in the collection of debts from consumer debtors who receive funds in escrow for subsequent distribution to others, including, but not limited to, real estate brokers and lenders holding funds of borrowers for payment of taxes or insurance, (iii) any public officer or a person acting under the order of any court, (iv) any member of the

bar of this state, (v) a person who services loans or accounts for the owners thereof when the arrangement includes, in addition to requesting payment from delinquent consumer debtors, the providing of other services such as receipt of payment, accounting, record-keeping, data processing services and remitting, for loans or accounts which are current as well as those which are delinquent, (vi) a bank or out-of-state bank, as defined in section 36a-2, and (vii) a subsidiary or affiliate of a bank or out-of-state bank, provided such affiliate or subsidiary is not primarily engaged in the business of purchasing and collecting upon delinquent debt, other than delinquent debt secured by real property. Any person not included in the definition contained in this subdivision is, for purposes of sections 36a-645 to 36a-647, inclusive, a "creditor", as defined in section 36a-645;

(3) "Consumer debtor" means any natural person, not an organization, who has incurred indebtedness or owes a debt for personal, family or household purposes, including current or past due child support, **[**or**]** who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a personal property tax or who has incurred indebtedness or owes a debt to the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

(4) "Creditor" means a person, including, but not limited to, a municipality or the United States Department of the Treasury, that retains, hires, or engages the services of a consumer collection agency;

(5) "Federal income tax" means all federal taxes levied on the income of a natural person or organization by the United States Department of the Treasury under the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time;

(6) "Federal income tax debtor" means any natural person or organization who owes a debt to the United States Department of

Treasury;

[(5)**]** (7) "Main office" means the main address designated on the application;

[(6)**]** (8) "Municipality" means any town, city or borough, consolidated town and city, consolidated town and borough, district as defined in section 7-324 or municipal special services district established under chapter 105a;

[(7)**]** (9) "Organization" means a corporation, partnership, association, trust or any other legal entity or an individual operating under a trade name or a name having appended to it a commercial, occupational or professional designation;

[(8)**]** (10) "Property tax" has the meaning given to the term in section 7-560; and

[(9)**]** (11) "Property tax debtor" means any natural person or organization who has incurred indebtedness or owes a debt to a municipality due to a levy by such municipality of a property tax.

Sec. 48. Subsection (a) of section 36a-801 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) No person shall act within this state as a consumer collection agency unless such person has first obtained a consumer collection agency license for such person's main office and each branch office where such person's business is conducted. A consumer collection agency is acting within this state if it (1) has its place of business located within this state; (2) has its place of business located outside this state and (A) collects from consumer debtors, **[**or**]** property tax debtors or federal income tax debtors who reside within this state for creditors who are located within this state, or (B) collects from consumer debtors, **[**or**]** property tax debtors or federal income tax debtors who reside within this state for such consumer collection

agency's own account; (3) has its place of business located outside this state and regularly collects from consumer debtors, [or] property tax debtors or federal income tax debtors who reside within this state for creditors who are located outside this state; or (4) has its place of business located outside this state and is engaged in the business of collecting child support for creditors located within this state from consumer debtors who are located outside this state.

Sec. 49. Subsection (a) of section 36a-802 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) No such license and no renewal thereof shall be granted to a third party consumer collection agency unless the applicant has filed with the commissioner a bond to the people of the state in the penal sum of twenty-five thousand dollars, approved by the Attorney General as to form and by the commissioner as to sufficiency of the security thereof. Such bond shall be conditioned that such licensee shall well, truly and faithfully account for all funds entrusted to the licensee and collected and received by the licensee in the licensee's capacity as a consumer collection agency. Any person who may be damaged by the wrongful conversion of any creditor, consumer debtor, [or] property tax debtor or federal income tax debtor funds received by such consumer collection agency may proceed on such bond against the principal or surety thereon, or both, to recover damages. The commissioner may proceed on such bond against the principal or surety thereon, or both, to collect any civil penalty imposed upon the licensee pursuant to subsection (a) of section 36a-50. The proceeds of the bond, even if commingled with other assets of the licensee, shall be deemed by operation of law to be held in trust for the benefit of such claimants against the licensee in the event of bankruptcy of the licensee and shall be immune from attachment by creditors and judgment creditors. The bond shall run concurrently with the period of the license granted to the applicant, and the aggregate liability under the bond shall not exceed the penal sum of the bond.

Sec. 50. Subsection (a) of section 36a-805 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) No consumer collection agency shall: (1) Furnish legal advice or perform legal services or represent that it is competent to do so, or institute judicial proceedings on behalf of others; (2) communicate with consumer debtors, **[**or**]** property tax debtors or federal income tax debtors in the name of an attorney or upon the stationery of an attorney, or prepare any forms or instruments which only attorneys are authorized to prepare; (3) receive assignments as a third party of claims for the purpose of collection or institute suit thereon in any court; (4) assume authority on behalf of a creditor to employ or terminate the services of an attorney unless such creditor has authorized such agency in writing to act as such creditor's agent in the selection of an attorney to collect the creditor's accounts; (5) demand or obtain in any manner a share of the proper compensation for services performed by an attorney in collecting a claim, whether or not such agency has previously attempted collection thereof; (6) solicit claims for collection under an ambiguous or deceptive contract; (7) refuse to return any claim or claims upon written request of the creditor, claimant or forwarder, which claims are not in the process of collection after the tender of such amounts, if any, as may be due and owing to the agency; (8) advertise or threaten to advertise for sale any claim as a means of forcing payment thereof, unless such agency is acting as the assignee for the benefit of creditors; (9) refuse or fail to account for and remit to its clients all money collected which is not in dispute within sixty days from the last day of the month in which said money is collected; (10) refuse or intentionally fail to return to the creditor all valuable papers deposited with a claim when such claim is returned; (11) refuse or fail to furnish at intervals of not less than ninety days, upon the written request of the creditor, claimant or forwarder, a written report upon claims received from such creditor, claimant or forwarder; (12) add any post charge-off charge or fee for cost of collection, unless such cost is a court cost, to the amount of any claim

which it receives for collection or knowingly accept for collection any claim to which any such charge or fee has already been added to the amount of the claim unless (A) the consumer debtor is legally liable for such charge or fee as determined by the contract or other evidence of an agreement between the consumer debtor and creditor, a copy of which shall be obtained by or available to the consumer collection agency from the creditor and maintained as part of the records of the consumer collection agency or the creditor, or both, and (B) the total charge or fee for cost of collection does not exceed fifteen per cent of the total amount actually collected and accepted as payment in full satisfaction of the debt; (13) use or attempt to use or make reference to the term "bonded by the state of Connecticut", "bonded" or "bonded collection agency" or any combination of such terms or words, except **[**that**]** the word "bonded" may be used on the stationery of any such agency in type not larger than twelve-point; (14) when the debt is beyond the statute of limitations, fail to provide the following disclosure in type not less than ten-point informing the consumer debtor in its initial communication with such consumer debtor that (A) when collecting on debt that is not past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it. If you do not pay the debt, (INSERT OWNER NAME) may report or continue to report it to the credit reporting agencies as unpaid"; and (B) when collecting on debt that is past the date for obsolescence provided for in Section 605(a) of the Fair Credit Reporting Act, 15 USC 1681c: "The law limits how long you can be sued on a debt. Because of the age of your debt, (INSERT OWNER NAME) will not sue you for it and (INSERT OWNER NAME) will not report it to any credit reporting agencies."; or (15) engage in any activities prohibited by sections 36a-800 to 36a-812, inclusive, as amended by this act.

Sec. 51. Subsection (b) of section 36a-811 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(b) Each third party consumer collection agency shall deposit funds collected or received from consumer debtors for payment for others on an account, bill or other indebtedness in one or more trust accounts maintained at a federally insured bank, Connecticut credit union, federal credit union or an out-of-state bank that maintains in this state a branch as defined in section 36a-410, which accounts shall be reconciled monthly. Such funds shall not be commingled with funds of the consumer collection agency or used in the conduct of the consumer collection agency's business. Such account shall not be used for any purpose other than (1) the deposit of funds received from consumer debtors, (2) the payment of such funds to creditors, (3) the refund of any overpayments to be made to consumer debtors, and (4) the payment of earned fees to the consumer collection agency, which shall be withdrawn on a monthly basis. Except for payments authorized by subdivisions (2) to (4), inclusive, of this subsection, any withdrawal from such account, including, but not limited to, any service charge or other fee imposed against such account by a depository institution, shall be reimbursed by the consumer collection agency to such account not more than thirty days after the withdrawal. Funds received from consumer debtors shall be posted to their respective accounts in accordance with generally accepted accounting **[**practices**]** principles.

Sec. 52. (NEW) (*Effective October 1, 2016*) (a) In any cause of action initiated by a consumer collection agency that purchased debt from a creditor for liability on the debt owed by a consumer debtor, the consumer collection agency shall file with the court evidence in accordance with the rules of the Superior Court to establish the amount and nature of the debt prior to the court's entry of a judgment against the consumer debtor. Such evidence shall include a copy of the assignment or other documentation (1) establishing that the plaintiff is the owner of the debt, (2) containing the original or charge-off account number, if any, which can be partially redacted to protect the privacy of the consumer debtor, and the name associated with the debt, and (3) if the debt has been assigned more than once, the name, address and dates of ownership of each assignor, and a copy of each assignment or

other documentation that establishes an unbroken chain of ownership of the debt by the plaintiff.

(b) In the case of a claim for default judgment the plaintiff shall file, in addition to the evidence required under the rules of the Superior Court, a sworn affidavit that lists the name, address and dates of ownership of each owner of the debt, from the charge-off creditor to the current owner. The plaintiff shall attach documentation to the affidavit that fully substantiates the amount of the debt. If the debt is a credit card debt subject to federal charge-off requirements, the following documents shall, subject to subsection (c) of this section, suffice to substantiate the debt: (1) A copy of the most recent monthly statement recording a purchase transaction, service billed, last payment or balance transfer, (2) a statement that reflects the charge-off balance, (3) with respect to consumer debt purchased on or after the effective date of this section, an additional monthly account statement sent to the consumer debtor while the account was active, which shows the consumer debtor's name and address, (4) such other statements, if any, required by the federal consumer financial protection bureau in its regulations, and (5) postcharge-off itemization of the balance if the balance is different from the charge-off amount.

(c) Nothing in this section shall prevent the judicial authority or the rules of the Superior Court from requiring the submission of additional written documentation or the presence of the plaintiff, the authorized representative of the plaintiff or other affiants or counsel before the judicial authority prior to rendering judgment if it appears to the judicial authority that additional information or evidence is required in order to enter judgment.

(d) This section shall apply prospectively and shall not apply to any debt collection action commenced prior to October 1, 2016, or to debt purchased by a licensed mortgage lender pursuant to a recourse requirement.

(e) A consumer collection agency that purchased the debt shall

indicate when any of the items produced pursuant to subsections (b) and (c) of this section have been redacted by either blacking out the text or otherwise indicating in writing on such document that text has been redacted.

Sec. 53. (NEW) (*Effective October 1, 2016*) (a) For the purposes of this section, "creditor" has the same meaning as in section 36a-645 of the general statutes.

(b) No creditor or consumer collection agency that purchased debt shall initiate a cause of action to collect the debt owed by a consumer debtor when such creditor or consumer collection agency knows or reasonably should know that the applicable statute of limitations on such cause of action has expired.

(c) Notwithstanding any other provision of law, when the applicable statute of limitations on a cause of action to collect debt owed by a consumer has expired, any subsequent payment toward or oral or written affirmation of the debt owed by the consumer shall not extend the limitations period within which the creditor or consumer collection agency that purchased the debt may bring the cause of action.

Sec. 54. Subsection (a) of section 36a-648 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) A creditor, as defined in section 36a-645, who uses any abusive, harassing, fraudulent, deceptive or misleading representation, device or practice with respect to any person to collect or attempt to collect a debt in violation of section 36a-646, section 36a-805, as amended by this act, or the regulations adopted pursuant to section 36a-647 or 36a-809 shall be liable to **[**a person who is harmed by such conduct**]** such person in an amount equal to the sum of: (1) Any actual damages sustained by such person, (2) if such person is an individual, such additional damages as the court may award, not to exceed one thousand dollars, and (3) in the case of any successful action to enforce

liability under the provisions of this subsection, the costs of the action and, in the discretion of the court, a reasonable attorney's fee.

Sec. 55. Section 36a-701 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

As used in this section and section 36a-701a, as amended by this act:

(1) "Consumer" means any person who is utilizing or seeking credit for personal, family or household purposes;

(2) "Credit rating agency" means credit rating agency, as defined in section 36a-695;

(3) "Credit report" means credit report, as defined in section 36a-695;

(4) "Creditor" means creditor, as defined in section 36a-695;

(5) "Minor child" means an individual under **[**eighteen**]** sixteen years of age at the time a request for placement of a security freeze is submitted;

(6) "Security freeze" means a notice placed in a consumer's credit report, at the request of the consumer, that prohibits the credit rating agency from releasing the consumer's credit report or any information from it without the express authorization of the consumer. In the case of a minor child under subsections (j) and (k) of section 36a-701a, as amended by this act, "security freeze" means (A) a restriction that is placed on the minor child's credit report prohibiting the credit rating agency from releasing the minor child's credit report or any information derived from the minor child's credit report, provided a credit rating agency has information in its files pertaining to such minor child; or (B) a restriction that is placed on the minor child's record prohibiting the credit rating agency from releasing the minor child's record, provided a credit rating agency does not have any information in its files pertaining to such minor child; and

(7) "Sufficient proof of authority" means documentation showing that a parent or legal guardian has authority to act on behalf of a minor child, including, but not limited to, a court order, an original copy of the minor child's birth certificate or a written notarized statement expressly describing the authority of the parent or legal guardian to act on behalf of the minor child that is signed by the parent or legal guardian and acknowledged, in accordance with the provisions of chapter 6, by (A) a judge of a court of record or a family support magistrate, (B) a clerk or deputy clerk of a court having a seal, (C) a town clerk, (D) a notary public, (E) a justice of the peace, or (F) an attorney admitted to the bar of this state.

Sec. 56. Section 36a-701a of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) Any consumer may submit a written request, by certified mail or such other secure method as authorized by a credit rating agency, to a credit rating agency to place a security freeze on such consumer's credit report. Such credit rating agency shall place a security freeze on a consumer's credit report not later than five business days after receipt of such request. Not later than ten business days after placing a security freeze on a consumer's credit report, such credit rating agency shall send a written confirmation of such security freeze to such consumer that provides the consumer with a unique personal identification number or password to be used by the consumer when providing authorization for the release of such consumer's report to a third party or for a period of time. Nothing in this subsection shall be deemed to require a consumer reporting agency to provide to a minor child or the parent or legal guardian of a minor child, on behalf of the minor child, a unique personal identification number, password or similar device to be used to authorize the consumer reporting agency to release such minor child's credit report.

(b) In the event such consumer, other than a minor child or the parent or legal guardian of a minor child, wishes to authorize the

disclosure of such consumer's credit report to a third party, or for a period of time, while such security freeze is in effect, such consumer shall contact such credit rating agency and provide: (1) Proper identification, (2) the unique personal identification number or password described in subsection (a) of this section, and (3) proper information regarding the third party who is to receive the credit report or the time period for which the credit report shall be available. Any credit rating agency that receives a request from a consumer pursuant to this section shall lift such security freeze not later than three business days after receipt of such request.

(c) Except for the temporary lifting of a security freeze as provided in subsection (b) of this section, any security freeze authorized pursuant to the provisions of this section shall remain in effect until such time as such consumer requests such security freeze to be removed. A credit rating agency shall remove such security freeze not later than three business days after receipt of such request provided such consumer provides proper identification to such credit rating agency and the unique personal identification number or password described in subsection (a) of this section at the time of such request for removal of the security freeze. In the case of a minor child, the credit rating agency shall remove such security freeze not later than fifteen business days after receipt of such request, provided the minor child or the parent or legal guardian of the minor child uses the unique personal identification number, password or similar device provided under subsection (a) of this section at the time of such request, if applicable.

(d) Any credit rating agency may develop procedures to receive and process such request from a consumer to temporarily lift or remove a security freeze on a credit report pursuant to subsection (b) of this section. Such procedures, at a minimum, shall include, but not be limited to, the ability of a consumer to send such temporary lift or removal request by electronic mail, letter or facsimile.

(e) In the event that a third party requests access to a consumer's

credit report that has such a security freeze in place and such third party request is made in connection with an application for credit or any other use and such consumer has not authorized the disclosure of such consumer's credit report to such third party, such third party may deem such credit application as incomplete.

(f) Any credit rating agency may refuse to implement or may remove such security freeze if such agency believes, in good faith, that: (1) The request for a security freeze was made as part of a fraud that the consumer participated in, had knowledge of, or that can be demonstrated by circumstantial evidence, or (2) the consumer credit report was frozen due to a material misrepresentation of fact by the consumer. In the event any such credit rating agency refuses to implement or removes a security freeze pursuant to this subsection, such credit rating agency shall promptly notify such consumer in writing of such refusal not later than five business days after such refusal or, in the case of a removal of a security freeze, prior to removing the freeze on the consumer's credit report.

(g) Nothing in this section shall be construed to prohibit disclosure of a consumer's credit report to: (1) A person, or the person's subsidiary, affiliate, agent or assignee with which the consumer has or, prior to assignment, had an account, contract or debtor-creditor relationship for the purpose of reviewing the account or collecting the financial obligation owing for the account, contract or debt; (2) a subsidiary, affiliate, agent, assignee or prospective assignee of a person to whom access has been granted under subsection (b) of this section for the purpose of facilitating the extension of credit or other permissible use; (3) any person acting pursuant to a court order, warrant or subpoena; (4) any person for the purpose of using such credit information to prescreen as provided by the federal Fair Credit Reporting Act; (5) any person for the sole purpose of providing a credit file monitoring subscription service to which the consumer has subscribed; (6) a credit rating agency for the sole purpose of providing a consumer with a copy of his or her credit report upon the consumer's request; or (7) a federal, state or local governmental entity, including a

law enforcement agency, or court, or their agents or assignees pursuant to their statutory or regulatory duties. For purposes of this subsection, "reviewing the account" includes activities related to account maintenance, monitoring, credit line increases and account upgrades and enhancements.

(h) The following persons shall not be required to place a security freeze on a consumer's credit report, provided such persons shall be subject to any security freeze placed on a credit report by another credit rating agency: (1) A check services or fraud prevention services company that reports on incidents of fraud or issues authorizations for the purpose of approving or processing negotiable instruments, electronic fund transfers or similar methods of payment; (2) a deposit account information service company that issues reports regarding account closures due to fraud, substantial overdrafts, automated teller machine abuse, or similar information regarding a consumer to inquiring banks or other financial institutions for use only in reviewing a consumer request for a deposit account at the inquiring bank or financial institution; or (3) a credit rating agency that: (A) Acts only to resell credit information by assembling and merging information contained in a database of one or more credit reporting agencies; and (B) does not maintain a permanent database of credit information from which new credit reports are produced.

(i) (1) Except as provided in subdivision (2) of this subsection, a credit rating agency may charge a fee of not more than ten dollars to a consumer for each security freeze, removal of such freeze or temporary lift of such freeze for a period of time, and a fee of not more than twelve dollars for a temporary lift of such freeze for a specific party.

(2) A credit rating agency shall not charge the fees authorized by subdivision (1) of this subsection to: (A) A victim of identity theft or the spouse of any victim of identity theft, who has submitted a copy of a police report prepared pursuant to section 54-1n to the credit rating agency; (B) any person who is covered under the victim of identity theft's individual or group health insurance policy providing coverage

of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469, who has submitted a copy of a police report prepared pursuant to section 54-1n to the credit rating agency; (C) a person sixty-two years of age or older; (D) a person under eighteen years of age; (E) a person for whom a guardian or conservator has been appointed by a court; and (F) a victim of domestic violence, as defined in subdivision (1) of subsection (a) of section 17b-112a, who has provided evidence of such domestic violence as specified in subsection (b) of section 17b-112a to the credit rating agency. No credit rating agency shall charge a fee to a consumer for a replacement personal identification number when such replacement is the first one requested by the consumer.

(j) The parent or legal guardian of a minor child may place a security freeze on the credit report of a minor child by submitting a written request to the credit rating agency in the manner described in this section and subject to the same conditions and by providing the credit rating agency with proper identification and sufficient proof of authority to act on behalf of the minor child. The credit rating agency shall place the security freeze on the credit report of a minor child not later than five business days after receipt of such request. If the credit rating agency does not have any information in its files pertaining to the minor child at the time the credit rating agency receives a request pursuant to this subsection, the credit rating agency shall create a record for the minor child and place a security freeze on such record. Such record shall consist of a compilation of information created by a credit rating agency that identifies a minor child. A credit rating agency shall not create or use such record to consider the minor child's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living. A credit rating agency shall not release a minor child's credit report, any information derived from a minor child's credit report or any record created for a minor child.

(k) The parent or legal guardian of a minor child may request the removal of a security freeze placed on the credit report or record of a

minor child by submitting a written request to the credit rating agency in the manner described in this section and subject to the same conditions and by providing the credit rating agency with proper identification and sufficient proof of authority to act on behalf of the minor child. The credit rating agency shall remove the security freeze on the credit report or record of a minor child not later than fifteen business days after receipt of such request.

(l) An insurer, as defined in section 38a-1, may deny an application for insurance if an applicant has placed a security freeze on such applicant's credit report and fails to authorize the disclosure of such applicant's credit report to such insurer pursuant to the provisions of subsection (b) of this section.

(m) Any security freeze in a credit report in effect as of the effective date of this section shall continue to be in effect until the consumer or the parent or legal guardian of a minor child requests the removal of the security freeze.

Sec. 57. Subsection (f) of section 42a-4-406 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not **[**within**]** on or before one year after the statement or items are made available to the customer pursuant to subsection (a) of this section discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under section 42a-4-208 with respect to the unauthorized signature or alteration to which the preclusion applies. Pursuant to the provisions of subsection (a) of section 42a-4-103, a bank and a customer may agree to reduce the one-year time frame for discovering and reporting an unauthorized signature or alteration. Such an agreement shall not, of itself, (1)

constitute a disclaimer of the bank's responsibility for its lack of good faith or failure to exercise ordinary care, or (2) limit the measure of damages for lack of good faith or failure to exercise ordinary care.

Sec. 58. Subsections (b) and (c) of section 36a-785 of the 2016 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(b) Not less than ten days prior to the retaking, the holder of such contract, if he so desires, may serve upon the retail buyer, personally or by registered or certified mail, a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which such goods will be retaken, and shall briefly and clearly state what the retail buyer's rights under this subsection will be in case such goods are retaken. In the case of repossession of any motor vehicle, the notice shall inform the retail buyer that he or she is responsible for removing all of his or her personal property from the motor vehicle prior to the date such repossession can take place. If the notice is so served and the buyer does not perform the conditions and provisions as to which he or she is in default before the day set for retaking, the holder of the contract may retake said goods and hold such subject to the provisions of subsections (d), (e), (f), (g) and (h) of this section regarding resale, but without any right of redemption.

(c) If the holder of such contract does not give the notice of intention to retake, described in subsection (b), he shall retain such goods for fifteen days after the retaking within the state in which they were located when retaken. During such period the retail buyer, upon payment or tender of the unaccelerated amount due under such contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in such contract as precedent to the retail buyer's continued possession of such goods, or upon performance or tender of performance of any other promise for the breach of which such goods were retaken, and upon payment of the actual and reasonable expenses of any retaking

and storing, may redeem such goods and become entitled to take possession of the same and to continue in the performance of such contract as if no default had occurred. The holder of such contract shall, [within three days] not later than three days after the date of the retaking, furnish or mail, by registered or certified mail, to the last known address of the buyer a written statement [of] indicating (1) the unaccelerated sum due under such contract and the actual and reasonable expense of any retaking and storing, and (2) in the case of repossession of any motor vehicle, the holder of such contract shall also, not later than three days after the date of the retaking, and without regard to whether notice of intention to retake was given to the buyer, send a written notice (A) that the buyer is responsible for retrieving items of personal property that may have been left in the motor vehicle, other than items that may have been turned over to law enforcement, (B) that such property, if any, will be available for retrieval for at least sixty days after the date on which the motor vehicle was repossessed, unless the holder of the contract specifies, or the terms of the contract specify a date at least sixty days after the repossession after which the buyer may no longer retrieve the property, and (C) the contact and business hours information that the buyer can use to make arrangements for retrieval of the property. If the buyer retrieves some or all of the personal property more than fifteen days after the date on which the motor vehicle was repossessed, the holder of the contract, or an agent thereof maintaining custody of the personal property, may charge the buyer a reasonable storage fee not to exceed twenty-five dollars. For failure to furnish or mail such statement as required by this section, the holder of the contract shall forfeit the right to claim payment for the actual and reasonable expenses of retaking and storage, and also shall be liable for the actual damages suffered because of such failure. If such goods are perishable so that retention for fifteen days as herein prescribed would result in their destruction or substantial injury, the provisions of this subsection shall not apply and the holder of the contract may resell the goods immediately upon such retaking.

Sec. 59. (*Effective October 1, 2016*) The Banking Commissioner shall set service standards for licensed student loan servicers, as defined in section 36a-846 of the general statutes. On or before July 1, 2017, the commissioner shall post such service standards on the Department of Banking's Internet web site.

Sec. 60. (*Effective October 1, 2016*) On or before July 1, 2017, the Student Loan Ombudsman, designated under section 36a-25 of the general statutes, may evaluate how the state can move toward debt-free education and submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to banking concerning its recommendations and the feasibility of establishing a program to require a student to sign a binding contract to pay a percentage of the student's adjusted gross income upon graduation, for a specified number of years, in lieu of incurring debt as a result of borrowing money under a student education loan.

Sec. 61. Section 36a-849 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) Each student loan servicer licensee **[**and persons exempt from licensure pursuant to subdivision (2) of subsection (a) of section 36a-847**]** shall maintain adequate records of each student education loan transaction for not less than two years following the final payment on such student education loan or the assignment of such student education loan, whichever occurs first, or such longer period as may be required by any other provision of law.

(b) If requested by the commissioner, each student loan servicer licensee shall make such records available or send such records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested by the commissioner to do so. Upon request, the commissioner may grant a

licensee additional time to make such records available or send the records to the commissioner.

Sec. 62. Section 36a-850 of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

No student loan servicer licensee shall:

(1) Directly or indirectly employ any scheme, device or artifice to defraud or mislead student loan borrowers;

(2) Engage in any unfair or deceptive practice toward any person or misrepresent or omit any material information in connection with the servicing of a student education loan, including, but not limited to, misrepresenting the amount, nature or terms of any fee or payment due or claimed to be due on a student education loan, the terms and conditions of the loan agreement or the borrower's obligations under the loan;

(3) Obtain property by fraud or misrepresentation;

(4) Knowingly misapply or recklessly apply student education loan payments to the outstanding balance of a student education loan;

(5) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby harming a student loan borrower's creditworthiness;

(6) Fail to report both the favorable and unfavorable payment history of the student loan borrower to a nationally recognized consumer credit bureau at least annually if the student loan servicer licensee regularly reports information to a credit bureau;

(7) Refuse to communicate with an authorized representative of the student loan borrower who provides a written authorization signed by the student loan borrower, provided the student loan servicer licensee may adopt procedures reasonably related to verifying that the

representative is in fact authorized to act on behalf of the student loan borrower; or

(8) Negligently make any false statement or knowingly and wilfully make any omission of a material fact in connection with any information or reports filed with a governmental agency or in connection with any investigation conducted by the Banking Commissioner or another governmental agency.

Sec. 63. (*Effective October 1, 2016*) (a) The Commissioner of Housing shall establish, within available appropriations, a pilot program for eligible local housing authorities to implement a credit building program that uses rental payments as a mechanism for credit building.

(b) The commissioner shall identify eligible local housing authorities in up to three distressed municipalities, as defined in section 32-9p of the general statutes, to participate in a three-year pilot program that will record and report timely rent payments by tenants to nationally recognized consumer credit bureaus that opt to participate in the pilot program. The eligible local housing authorities shall receive technical assistance to implement rent-reporting software and track data regarding rent payments throughout the program's duration.

(c) Eligible local housing authorities identified under subsection (b) of this section shall provide training and support to staff regarding the pilot program. The staff of the local housing authorities shall conduct educational briefings for tenants to learn about the pilot program and benefits of participation in such pilot program.

(d) Not later than January 1, 2017, the Commissioner of Housing shall establish the parameters of the pilot program and designate up to three eligible local housing authorities identified pursuant to subsection (b) of this section to participate in the program.

(e) The commissioner shall submit, in accordance with the provisions of section 11-4a of the general statutes, the following reports to the joint standing committee of the General Assembly having

cognizance of matters relating to housing: (1) A status report on the pilot program not later than July 1, 2017; (2) an interim report on the pilot program not later than January 1, 2018; and (3) a final report on the pilot program not later than July 1, 2019.

Sec. 64. Section 45a-107b of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2016*):

(a) As used in this section: (1) "Bona fide purchaser" means a party who takes a conveyance of real property in good faith and pays valuable consideration, without actual, implied or constructive notice that (A) a holder or former holder of a title interest in the real property died on or after January 1, 2015, while continuing to hold an interest in the real property at the time of death, or (B) a former holder of a title interest in the real property died on or after January 1, 2015, after making a lifetime transfer of an interest in the real property to a trustee of a revocable trust who continued to hold the interest at the time of the former holder's death; and (2) "qualified encumbrancer" means a party who places a burden, charge or lien on real property, in good faith, without actual, implied or constructive notice that (A) a holder or former holder of a title interest in the real property died on or after January 1, 2015, while continuing to hold an interest in the real property at the time of death, or (B) a former holder of a title interest in the real property died on or after January 1, 2015, after making a lifetime transfer of an interest in the real property to a trustee of a revocable trust who continued to hold the interest at the time of the former holder's death.

[(a)**]** (b) The fees imposed under **[**subsections (b), (c) and (d)**]** subsection (b) of section 45a-107 shall be a lien in favor of the state of Connecticut upon any real property located in this state that is included in the basis for fees of the estate of a deceased person, from the due date until paid, with interest that may accrue in addition thereto, except that such lien shall not be valid as against any **[**lienor, mortgagee, judgment creditor or**]** bona fide purchaser or qualified

encumbrancer until notice of such lien is filed or recorded in the town clerk's office or place where mortgages, liens and conveyances of such property are required by statute to be filed or recorded.

[(b)**]** (c) The Probate Court for the district in which the decedent resided on the date of his or her death or, if the decedent died a nonresident of this state, for the district within which real estate or tangible personal property of the decedent is situated, shall issue a certificate of release of lien for any such real property not later than ten days after receipt of payment in full of such fee and interest thereon. The court may issue a certificate of release of lien for any such real property, or portion thereof, if the court finds that the fee and interest thereon has not been fully paid but that payment is adequately assured. A certificate of release of lien may be recorded in the office of the town clerk within which such real property is situated, and such certificate shall be conclusive proof that the fees have been paid and such lien discharged.

Sec. 65. (NEW) (*Effective from passage*) As used in this section and sections 66 to 71, inclusive, of this act, unless the context otherwise requires:

(1) "International trade and investment corporation" means a person, as defined in section 36a-2 of the general statutes, approved or seeking approval by the Export-Import Bank of the United States, Overseas Private Investment Corporation or United States Department of Agriculture to participate as a lender under a financing guarantee program;

(2) "License" means a license issued under this section and sections 66 to 71, inclusive, of this act; and

(3) "Licensee" means an international trade and investment corporation that is licensed under this section and sections 66 to 71, inclusive, of this act.

Sec. 66. (NEW) (*Effective from passage*) (a) The Banking

Commissioner may issue a license to any international trade and investment corporation that submits an application pursuant to subsection (b) of this section and meets the requirements of this section and sections 67 to 70, inclusive, of this act.

(b) An application for a license shall be in writing upon forms acceptable to the commissioner and shall contain: (1) The full name and address of the applicant; (2) if the applicant is a corporation, each of the officers and directors thereof; (3) a statement of the assets and liabilities of the applicant in such form as the commissioner requires; (4) a copy of the applicant's business plan; (5) proof that the applicant is in compliance with applicable state and federal laws; and (6) such other information and exhibits as the commissioner shall require.

(c) The commissioner, at any time and in accordance with section 29-17a of the general statutes, may arrange for a state and national criminal history records check of each principal executive officer and director of the applicant or licensee.

(d) Upon the filing of the required application and license fee, the commissioner shall investigate the facts and may issue a license if the commissioner finds that:

(1) The applicant has a net worth that is adequate for the applicant to transact business as an international trade and investment corporation, but in no case less than two million five hundred thousand dollars;

(2) If the applicant is a corporation, the directors and officers of the applicant are each of good character, each competent to perform their functions with respect to the applicant and collectively adequate to manage the business of the applicant as an international trade and investment corporation;

(3) It is reasonable to believe that the applicant, if licensed, will comply with all applicable provisions of sections 65 to 70, inclusive, of this act, and of any regulation adopted pursuant to section 71 of this

act; and

(4) The licensing of the applicant will promote the public convenience and advantage.

(e) Nothing in this section, section 65 and sections 67 to 71, inclusive, of this act, shall be deemed to require an international trade and investment corporation to be licensed by the commissioner.

Sec. 67. (NEW) (*Effective from passage*) (a) Each licensee shall use its best efforts to provide financing in conjunction with, and fulfill the expectations of, the federal financing guarantee programs in which the licensee participates.

(b) Each licensee shall transact its business in a safe and sound manner and shall maintain itself in a safe and sound condition. No licensee or the directors or officers of such licensee, if such licensee is a corporation, shall commit any unsafe or unsound act.

(c) Each licensee shall comply with all applicable state and federal laws and regulations.

Sec. 68. (NEW) (*Effective from passage*) (a) Each licensee shall make and keep such books, accounts and other records in such form and in such manner as the commissioner may by regulation or order require.

(b) Each licensee shall, not more than ninety days after the close of its fiscal year, or within such longer period as the commissioner may by regulation specify, file with the commissioner an annual report containing:

(1) A financial statement, including balance sheet, statement of income or loss, statement of changes in capital accounts and statement of changes in financial position, for its fiscal year or as of the end of such fiscal year, prepared with an audit by an independent certified public accountant in accordance with generally accepted accounting principles;

(2) A report, certificate or opinion of such independent certified public accountant stating that the financial statement was prepared in accordance with generally accepted accounting principles, and that such accountant agrees to provide related working papers, policies and procedures to the commissioner, if requested;

(3) A report as to (A) the number and aggregate dollar amount of loans made by such licensee during its fiscal year; (B) the geographic distribution, including by United States census tract, if applicable, of the borrowers that received such loans; (C) the percentage of such loans that were made to minority or women-owned United States and foreign businesses; (D) the dollar amount of the licensee's loan portfolio as of the end of its fiscal year; (E) the percentage amount of the licensee's loan portfolio that represents loans for which scheduled loan payments were more than ninety days past due as of the end of its fiscal year; (F) the number and dollar amount of loans in liquidation as of the end of its fiscal year; (G) the dollar amount of the licensee's reserve for loan and lease losses; and (H) percentage of reserves to total loans and leases; and

(4) Such other information as the commissioner may require.

Sec. 69. (NEW) (*Effective from passage*) Each licensee shall be an institution subject to the jurisdiction of the commissioner for purposes of sections 36a-17 and 36a-53 of the general statutes.

Sec. 70. (NEW) (*Effective from passage*) (a) Each applicant for a license, at the time of making such application, shall pay to the commissioner a nonrefundable license fee of two thousand five hundred dollars. Each license issued pursuant to section 66 of this act shall expire at the close of business on June thirtieth of each year, unless such license is renewed. The license shall not be transferable or assignable. Each licensee shall, on or before June twentieth of each year, pay to the commissioner the sum of one thousand dollars as a license renewal fee for the succeeding year, commencing July first. Each applicant or licensee shall pay all the expenses associated with

any examination or investigation made under sections 66 to 70, inclusive, of this act or any regulation adopted pursuant to section 71 of this act.

(b) If the commissioner determines that a check filed with the commissioner to pay a license fee has been dishonored, the commissioner shall automatically suspend the license or a renewal license that has been issued but is not yet effective. The commissioner shall give the licensee notice of the automatic suspension pending proceedings for revocation or refusal to renew and an opportunity for a hearing on such actions in accordance with section 36a-51 of the general statutes.

(c) Upon surrender or termination of the license, the licensee shall promptly notify all customers and provide confirmation of the notification to the commissioner not later than fifteen days after the date of such suspension or termination.

Sec. 71. (NEW) (*Effective from passage*) The commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to administer the provisions of sections 65 to 70, inclusive, of this act.

Sec. 72. (NEW) (*Effective from passage*) Not later than January 1, 2017, the Treasurer shall, within available appropriations and in consultation with the Department of Revenue Services, submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to banking concerning any mechanism for converting an education savings plan, as described in Section 529 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, into an ABLE account established under section 3-39k of the general statutes, and any appropriations or revisions to the general statutes the Treasurer deems necessary to ensure the successful operation of the qualified ABLE program.

Sec. 73. (NEW) (*Effective October 1, 2016*) For purposes of this section and sections 74 to 80, inclusive, of this act:

(1) "Mortgage" has the same meaning as provided in section 49-24a of the general statutes, as amended by this act;

(2) "Mortgagee" has the same meaning as provided in section 49-24a of the general statutes, as amended by this act;

(3) "Mortgagor" has the same meaning as provided in section 49-24a of the general statutes, as amended by this act except a mortgagor, for the purposes of this act, shall only include those mortgagors with personal net liquid assets, excluding retirement and tax advantaged health savings plans that are less than one hundred thousand dollars;

(4) "Residential real property" has the same meaning as provided in section 49-24a of the general statutes, as amended by this act;

(5) "Senior lien" means the first security interest placed upon a property to secure payment of a debt or performance of an obligation before one or more junior liens;

(6) "Junior lien" means a security interest placed upon a property to secure payment of a debt or performance of an obligation after a senior lien is placed on such property;

(7) "Lienholder" means a person who holds a security interest in real property; and

(8) "Underwater mortgage" means a mortgage where the debt associated with such mortgage, along with any senior lien, exceeds the fair market value of the mortgaged property as determined by a court in accordance with sections 77 and 78 of this act.

Sec. 74. (NEW) (*Effective October 1, 2016*) Notwithstanding any provision of the general statutes, any underwater mortgage on residential real property may be modified, and the principal balance increased by the amount of accrued interest, fees and costs allowed by

law, without the consent of the holders of junior liens and without loss of priority for the full amount of the modified mortgage, provided such modification is approved by the court through entry of a judgment of loss mitigation under section 77 of this act.

Sec. 75. (NEW) (*Effective October 1, 2016*) A mortgagor of an underwater mortgage may elect to convey the residential real property encumbered by the mortgage to a mortgagee in full or partial satisfaction of the mortgagor's obligation to the mortgagee by agreeing to convey such property in a transfer agreement executed by both parties. The transfer agreement shall: (1) Convey to the mortgagee all interests in the property, except the interests reserved to the mortgagor in the transfer agreement or the interests held by more senior mortgagees or lienholders or junior lienholders that are not a party to the action and not subject to the action by virtue of section 52-325 of the general statutes; (2) contemplate a discharge of the mortgage after satisfaction of the conditions of the transfer agreement by the mortgagor; (3) contemplate the termination of any other interest in the property subordinate to that of the lienholder party to the transfer agreement following a court's entry of a judgment of loss mitigation under section 77 of this act; and (4) contain other provisions mutually agreeable to the mortgagor and mortgagee including, without limitation, a cash contribution of either party to the other or the execution of a promissory note by one party in favor of the other party upon such terms as such parties agree.

Sec. 76. (NEW) (*Effective October 1, 2016*) A mortgagor of an underwater mortgage may enter into a transfer agreement to convey the residential real property subject to the mortgage to a third party and, as a condition of such conveyance, pay to the mortgagee less than the outstanding balance due on the mortgage debt, which payment shall be in full or partial satisfaction of the mortgagor's obligation to the mortgagee. Such transfer agreement shall be executed by both the mortgagor and the mortgagee and shall: (1) Contemplate a transfer to the third party of all the mortgagor's interests in the property to the third party, except for the interests reserved to the mortgagor in the

transfer agreement or the interests held by more senior mortgagees or lienholders or junior lienholders that are not a party to the action and not subject to the action by virtue of section 52-325 of the general statutes; (2) contemplate a discharge of the mortgage after satisfaction of the conditions of the transfer agreement by the mortgagor; (3) contemplate the termination of any other interest in the property subordinate to that of the mortgagee following a court's entry of a judgment of loss mitigation under section 78 of this act; and (4) contain other provisions mutually agreeable to the mortgagor and mortgagee, including, without limitation, a cash contribution of either party to the other or the execution of a promissory note by one party in favor of the other party upon such terms as such parties agree.

Sec. 77. (NEW) (*Effective October 1, 2016*) A mortgagee may file a motion for judgment of loss mitigation at any time after the fifteen days following the return date in a pending foreclosure action following execution of an agreement under section 74 or 75 of this act. Nothing in this section shall be construed as allowing such a judgment to be entered by the court without the express written consent of both the mortgagor and mortgagee or requiring a mortgagee to consider consenting to such a judgment in foreclosure mediation. Failure of either party to consent to a judgment of loss mitigation for any reason shall not be a basis for a claim of bad faith. Upon motion of the mortgagee and with the consent of the mortgagor, the court, after notice and hearing, may render a judgment of loss mitigation approving the modification or conveyance. All parties to the action may participate in such a hearing. Such judgment shall be a final judgment for purposes of appeal. The only issues at such hearing shall be (1) a finding of the fair market value of the residential property, which may be determined by a written appraisal of the fair market value of the residential real property obtained by the mortgagee, to be performed by an appraiser licensed under chapter 400g of the general statutes, (2) to the extent necessary, a finding of the outstanding balance of any priority liens on such property to determine if the mortgagee's mortgage is an underwater mortgage, (3) the debt owed to

the mortgagee that is secured by the mortgage, (4) whether the mortgage is an underwater mortgage, (5) whether the contemplated transaction was agreed to in good faith for the purposes of mitigation, and (6) whether the parties to the contemplated transaction other than the mortgagee meet the financial requirements of a mortgagor under this act, which shall be determined by a financial statement submitted by the proposed mortgagor or mortgagors, or such other financial information from the proposed mortgagor or mortgagors that the court requires. The court shall not enter a judgment of loss mitigation unless the court makes express findings that the mortgage is an underwater mortgage and that the good faith provisions of subdivision (5) and the provisions of subdivision (6) of this section have been satisfied. If the court renders a judgment of loss mitigation under this section, then immediately after the expiration of any applicable appeal period or after the disposition of an appeal that affirms the judgment, either, as applicable (A) the mortgage held by the mortgagee shall be increased as contemplated in such judgment and the lien of any junior lienholder who is a party to the action, or subject to the action by virtue of section 52-325 of the general statutes, shall be deemed subordinated to such mortgage, in the same order as existed prior to the subordination, or (B) the conveyance to the mortgagee contemplated in the transfer agreement shall be effectuated, provided, in the event of an appeal, the mortgagor or the mortgagee may withdraw his or her consent to the foreclosure by loss mitigation at his or her sole discretion and the foreclosure of the mortgage may continue without any further restriction. Notwithstanding any provision of this section to the contrary, to the extent such conveyance is later set aside or avoided by application of any provision of Title 11 of the United States Code, the judgment of loss mitigation shall be set aside and all parties shall retain the same interests in the property as existed before the judgment of loss mitigation, to the extent permitted under applicable provisions of Title 11 of the United States Code. The mortgagor and mortgagee shall, not later than thirty days after the modification or conveyance, submit the judgment of loss mitigation to the town clerk for recording in accordance with title 7 of the general statutes. Nothing contained in

this section or section 74 or 75 of this act shall be construed as prohibiting a consensual modification of a mortgage or a deed in lieu of foreclosure being consummated outside of the judicial process.

Sec. 78. (NEW) (*Effective October 1, 2016*) A mortgagee may file a motion for judgment of loss mitigation at any time after the fifteen days following the return date in a pending foreclosure action following an agreement under section 76 of this act. Nothing in this section shall be construed as allowing such a judgment to be entered by the court without the express written consent of both the mortgagor and mortgagee or requiring a mortgagee to consider consenting to such a judgment in foreclosure mediation. Failure of either party to consent to a judgment of loss mitigation for any reason shall not be a basis for a claim of bad faith. Upon motion of the mortgagee and with the consent of the mortgagor, the court, after notice and hearing, may render a judgment of loss mitigation approving conveyance of the property to the third party on such terms as set forth in the transfer agreement between the mortgagor and mortgagee. All parties to the action may participate in such a hearing. Such judgment shall be a final judgment for purposes of appeal. The only issues at such hearing shall be (1) a finding of the fair market value of the residential property, which may be determined by a written appraisal of the fair market value of the residential real property obtained by the mortgagee, to be performed by an appraiser licensed under chapter 400g of the general statutes, (2) to the extent necessary, a finding of the outstanding balance of any priority liens on such property, to determine if the mortgagee's mortgage is an underwater mortgage, (3) the debt owed to the mortgagee that is secured by the mortgage, (4) whether the mortgage is an underwater mortgage, and (5) whether the contemplated transaction was agreed to in good faith for the purposes of mitigation. The court shall not enter a judgment of loss mitigation unless the court makes express findings that the mortgage is an underwater mortgage and that the good faith provisions of subdivision (5) of this section have been satisfied. If the court renders a judgment of loss mitigation under this section, then the conveyance to

the third party shall be ordered to take place, provided, in the event of an appeal, the mortgagor or the mortgagee may withdraw his or her consent to the foreclosure by loss mitigation at his or her sole discretion and the foreclosure of the mortgage may continue without any further restriction. Such conveyance shall take place by the date set forth in the transfer agreement, which may be extended for up to sixty days upon agreement of the mortgagor and mortgagee or further by order of the court, after notice and hearing. The mortgagor shall, prior to the recording of the document conveying title to the property to the third party, submit the judgment of loss mitigation to the town clerk for recording in accordance with the provisions of title 7 of the general statutes. After receipt of funds and other consideration by the mortgagee, as contemplated in the transfer agreement, the mortgagee shall file a satisfaction of judgment of loss mitigation with the court. Nothing contained in this section or section 76 of this act shall be construed as prohibiting, outside of the judicial process, a consensual release of mortgage by a mortgagee for less than payment of the full indebtedness secured thereby.

Sec. 79. (NEW) (*Effective October 1, 2016*) If the court does not enter a judgment of loss mitigation, then the modification or conveyance contemplated by the mortgagor and mortgagee under section 74, 75 or 76 of this act shall not be consummated. Nothing in this section shall be construed as prohibiting a consensual modification of a mortgage or conveyance from being consummated outside of the judicial process. In the event of such nonentry:

(1) The mortgagor may, if eligible, petition for inclusion in the foreclosure mediation program established pursuant to section 49-31m of the general statutes, provided the mortgagor did not substantially contribute to the events leading to the nonentry or other circumstances resulting in the nonentry. In determining whether to grant such petition, the court shall give consideration to any testimony or affidavits the parties may submit in support of or in opposition to such petition. The court may grant such petition upon a determination that (A) such petition is not motivated primarily by a desire to delay entry

of a judgment of foreclosure, and (B) it is highly probable the parties will reach an agreement through mediation; and

(2) The mortgagee shall have the right to request the entry of a judgment of foreclosure in accordance with the other provisions of law, including the provisions governing strict foreclosure.

Sec. 80. (NEW) (*Effective October 1, 2016*) Nothing in sections 74 to 78, inclusive, of this act shall be construed as eliminating the debt or any judgment associated with an affected junior lien on the residential real property encumbered by the underwater mortgage.

Sec. 81. Subsections (a) and (b) of section 49-24b of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

[(a) On and after January 1, 2015, a mortgagee who desires to foreclose upon a mortgage encumbering residential real property of a mortgagor shall give notice to the mortgagor by registered or certified mail, postage prepaid, at the address of the residential real property that is secured by such mortgage, in accordance with the relevant notice provisions of this chapter and chapter 134. No such mortgagee may commence a foreclosure of a mortgage prior to mailing such notice. Such notice shall advise the mortgagor of his or her delinquency or other default under the mortgage and that the mortgagor has the option to contact the mortgagee to discuss whether the property may, by mutual consent of the mortgagee and mortgagor, be marketed for sale pursuant to a listing agreement established in accordance with section 49-24d. Such notice shall also advise the mortgagor (1) of the mailing address, telephone number, facsimile number and electronic mail address that should be used to contact the mortgagee; (2) of a date not less than sixty days after the date of such notice by which the mortgagor must initiate such contact, with contemporaneous confirmation in writing of the election to pursue such option sent to the designated mailing address or electronic mail address of the mortgagee; (3) that the mortgagor should contact a real

estate agent licensed under chapter 392 to discuss the feasibility of listing the property for sale pursuant to the foreclosure by market sale process; (4) that, if the mortgagor and mortgagee both agree to proceed with further discussions concerning an acceptable listing agreement, the mortgagor must first permit an appraisal to be obtained in accordance with section 49-24c for purposes of verifying eligibility for foreclosure by market sale; (5) that the appraisal will require both an interior and exterior inspection of the property; (6) that the terms and conditions of the listing agreement, including the duration and listing price, must be acceptable to both the mortgagee and mortgagor; (7) that the terms and conditions of any offer to purchase, including the purchase price and any contingencies, must be acceptable to both the mortgagor and mortgagee; (8) that if an acceptable offer is received, the mortgagor will sign an agreement to sell the property through a foreclosure by market sale; and (9) in bold print and at least ten-point font, that if the mortgagor consents to a foreclosure by market sale, the mortgagor will not be eligible for foreclosure mediation in any type of foreclosure action that is commenced following the giving of such consent. The notice provided under this subsection may be combined with and delivered at the same time as any other notice required by subsection (a) of section 8-265ee or federal law.

(b) At any time after the date provided in the notice required under subsection (a) of this section, the foreclosure of the mortgagor's mortgage may continue without any further restriction or requirement, provided the mortgagee files an affidavit with the court stating that the notice provisions of said subsection have been complied with and that either the mortgagor failed to confirm his or her election in accordance with said subsection by the date disclosed in the notice or that discussions were initiated, but (1) the mortgagee and mortgagor were unable to reach a mutually acceptable agreement to proceed; (2) based on the appraisal obtained pursuant to section 49-24c, the property does not appear to be subject to a mortgage that is eligible for foreclosure by market sale; (3) the mortgagor did not grant reasonable interior access for the appraisal required by section 49-24c; (4) the mortgagee and

mortgagor were unable to reach an agreement as to a mutually acceptable listing agreement pursuant to section 49-24d; (5) a listing agreement was executed, but no offers to purchase were received; (6) an offer or offers were received, but were unacceptable to either or both the mortgagee and mortgagor; or (7) other circumstances exist that would allow the mortgagee or mortgagor to elect not to proceed with a foreclosure by market sale pursuant to sections 49-24 to 49-24g, inclusive, 49-26 to 49-28, inclusive, and 49-31t, or that would otherwise make the mortgage ineligible for foreclosure by market sale. The affidavit required by this subsection may be combined with the affidavit required by subsection (b) of section 8-265ee.**]**

A mortgagor and a mortgagee may agree, by mutual consent, to pursue a foreclosure by market sale pursuant to sections 49-24b to 49-24g, inclusive, as amended by this act. Nothing herein shall be construed as requiring either the mortgagor or mortgagee to pursue a foreclosure by market sale or to consider a foreclosure by market sale in foreclosure mediation. Failure of either party to consent to a foreclosure by market sale for any reason shall not be a basis for a claim of bad faith.

Sec. 82. Subsections (a) and (b) of section 49-24e of the general statutes are repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) If a mortgagor executes a listing agreement that is acceptable to both the mortgagee and mortgagor pursuant to section 49-24d and receives an offer to purchase the residential real property that encompasses a price, terms and conditions that are acceptable to both the mortgagor and the mortgagee, the mortgagor shall execute a contract for sale with the purchaser that shall reflect the agreed-upon price, terms and conditions and be contingent upon the completion of the foreclosure by market sale in accordance with sections 49-24 to 49-24g, inclusive, as amended by this act, and sections 49-26 to 49-28, inclusive, as amended by this act. **[**, and 49-31t.**]** If an offer is received, but is unacceptable to the mortgagee, the mortgagee shall provide the

mortgagor with written notice of its decision and, without limiting the breadth of its discretion, a general explanation of the reason or reasons for such decision. Such notice shall not be required in instances where the offer is unacceptable to the mortgagor. The mortgagor shall, not later than five days after the date of the execution of the purchase and sale contract, provide the mortgagee with a copy of such contract along with written documentation, in a form and substance acceptable to the mortgagee, evidencing the mortgagor's consent to the filing of a motion for judgment of foreclosure by market sale.

(b) Unless otherwise prohibited by applicable law, not later than thirty days after the receipt of such contract and the documentation evidencing consent, or not later than thirty days after the satisfaction or expiration of any contingencies in the contract that must either have been satisfied or expired before the foreclosure action may be commenced to consummate the sale, whichever thirty-day time frame is later, the mortgagee shall commence a foreclosure by market sale by writ, summons and complaint. Any such complaint shall claim, in the prayer for relief, a foreclosure of the mortgage pursuant to sections 49-24 to 49-24g, inclusive, as amended by this act, and sections 49-26 to 49-28, inclusive, as amended by this act, **[**and 49-31t,**]** and shall contain a copy of the contract between the mortgagor and the purchaser as well as a copy of the appraisal obtained pursuant to section 49-24c. If the mortgagee has already commenced a foreclosure action at the time of either receipt of such contract or such satisfaction or expiration, then, not later than thirty days after the latest of such receipt, satisfaction or expiration, the mortgagee shall make a motion for judgment of foreclosure by market sale in accordance with the provisions of section 49-24f and attach the contract and appraisal to the motion. No mortgagee may require the employ or use of a particular list of persons licensed under chapter 392 as a condition of approval of an offer. No mortgagee may require the use of an auction or other alternative method of sale as a condition of approval of an offer once the listing agreement required pursuant to section 49-24d has been executed by the mortgagor. Nothing in this section shall be construed

as requiring either the mortgagee or mortgagor to approve any offer that is made pursuant to this section.

Sec. 83. Section 49-24 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

All liens and mortgages affecting real property may, on the written motion of any party to any suit relating thereto, be foreclosed (1) by a decree of sale instead of a strict foreclosure at the discretion of the court before which the foreclosure proceedings are pending, or (2) with respect to mortgages, as defined in section 49-24a, as amended by this act, that are a first mortgage against the property, by a judgment of foreclosure by market sale upon the written motion of the mortgagee, as defined in section 49-24a, as amended by this act, and with consent of the mortgagor, as defined in section 49-24a, as amended by this act, in accordance with sections 49-24a to 49-24g, inclusive, as amended by this act, and sections 49-26 to 49-28, inclusive, as amended by this act. **[**, and 49-31t.**]**

Sec. 84. Section 49-24a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

For purposes of a foreclosure by market sale in accordance with this section **[**,**]** and sections 49-24b to 49-24g, inclusive, as amended by this act: **[**, and section 49-31t:**]**

(1) "Mortgage" means a mortgage deed, deed of trust or other equivalent consensual security interest on residential real property securing a loan made primarily for personal, family or household purposes that is first in priority over any other mortgages or liens encumbering the residential real property, except those liens that are given priority over a mortgage pursuant to state or federal law;

(2) "Mortgagee" means the owner or servicer of the debt secured by a mortgage;

(3) "Mortgagor" means the owner-occupant of residential real

property located in this state who is also the borrower under the loan that is secured by a mortgage, other than a reverse annuity mortgage, encumbering such residential real property that is the primary residence of such owner-occupant, where the amount due on such mortgage loan, including accrued interest, late charges and other amounts secured by the mortgage, when added to amounts for which there is a prior lien by operation of law, exceeds the appraised value of the property; and

(4) "Residential real property" means a one-to-four-family dwelling occupied as a residence by a mortgagor.

Sec. 85. Section 49-31e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

[(a)**]** In an action by a lender for the foreclosure of a mortgage of residential real property, **[**such lender shall give notice to the homeowner of the availability of the provisions of sections 49-31d to 49-31i, inclusive, at the time the action is commenced.

(b) A homeowner who is given notice of the availability of the provisions of sections 49-31d to 49-31i, inclusive, must**]** the homeowner shall make application for protection from foreclosure, **[**within**]** under the provisions of sections 49-31d to 49-31i, inclusive, not later than twenty-five days **[**of**]** after the return day.

[(c) No judgment foreclosing the title to real property by strict foreclosure or by a decree of sale shall be entered unless the court is satisfied from pleadings or affidavits on file with the court that notice has been given to the homeowner against whom the foreclosure action is commenced of the availability of the provisions of sections 49-31d to 49-31i, inclusive.

(d) If a homeowner against whom the foreclosure action is commenced was not given notice of the availability of the provisions of sections 49-31d to 49-31i, inclusive, at the time the action was commenced, and such homeowner was eligible to apply for protection

from foreclosure at such time, the court, upon its own motion or upon the written motion of such homeowner, may issue an order staying the foreclosure action for fifteen days during which period the homeowner may apply to the court for protection from foreclosure by submitting an application together with a financial affidavit as required by subsection (a) of section 49-31f.**]**

Sec. 86. Section 49-22 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) In any action brought for the foreclosure of a mortgage or lien upon land, or for any equitable relief in relation to land, the plaintiff may, in his complaint, demand possession of the land, and the court may, if it renders judgment in his favor and finds that he is entitled to the possession of the land, issue execution of ejectment, commanding the officer to eject the person or persons in possession of the land no fewer than five business days after the date of service of such execution and to put in possession thereof the plaintiff or the party to the foreclosure entitled to the possession by the provisions of the decree of said court, provided no execution shall issue against any person in possession who is not a party to the action except a transferee or lienor who is bound by the judgment by virtue of a lis pendens. The officer shall eject the person or persons in possession and may remove such person's possessions and personal effects and deliver such possessions and effects to the place of storage designated by the chief executive officer of the town for such purposes.

(b) Before any such removal, the state marshal charged with executing upon the ejectment shall give the chief executive officer of the town twenty-four **[**hours**]** hours' notice of the ejectment, stating the date, time and location of such ejectment as well as a general description, if known, of the types and amount of property to be removed from the land and delivered to the designated place of storage. **[**Before**]** At least five business days before giving such notice to the chief executive officer of the town, the state marshal shall use reasonable efforts to locate and notify the person or persons in

possession of the date and time such ejectment is to take place and of the possibility of a sale pursuant to subsection (c) of this section and shall provide clear instructions as to how and where such person or persons may reclaim any possessions and personal effects removed and stored pursuant to this section, including a telephone number that such person or persons may call to arrange release of such possessions and personal effects.

(c) Whenever a mortgage or lien upon land has been foreclosed and execution of ejectment issued, and the possessions and personal effects of the person in possession thereof are removed by a state marshal under this section, such possessions and effects shall be delivered by such marshal to the designated place of storage. Such removal, delivery and storage shall be at the expense of such person. If the possessions and effects are not reclaimed by such person and the expense of the storage is not paid to the chief executive officer within fifteen days after such ejectment, the chief executive officer shall sell the same at public auction, after using reasonable efforts to locate and notify such person of the sale and after posting notice of the sale for one week on the public signpost nearest to the place where the ejectment was made, if any, or at some exterior place near the office of the town clerk. The chief executive officer shall deliver to such person the net proceeds of the sale, if any, after deducting a reasonable charge for storage of such possessions and effects. If such person does not demand the net proceeds within thirty days after the sale, the chief executive officer shall turn over the net proceeds of the sale to the town treasury.

Sec. 87. Subdivision (4) of subsection (c) of section 49-31*l* of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(4) Upon receipt of the mortgagor's appearance and foreclosure mediation certificate forms, and provided the court confirms the defendant in the foreclosure action is a mortgagor and that said mortgagor has sent a copy of the mediation certificate form to the

plaintiff, the court shall assign the case to mediation and issue notice of such assignment to all appearing parties, which notice shall include an electronic mail address for all communications related to the mediation. The court shall issue such notice not earlier than the date five business days after the return date or by the date three business days after the date on which the court receives the mortgagor's appearance and foreclosure mediation certificate forms, whichever is later, except that if the court does not receive the appearance and foreclosure mediation certificate forms from the mortgagor by the date fifteen days after the return date for the foreclosure action, the court shall not assign the case to mediation. Promptly upon receipt of the notice of assignment, but not later than the thirty-fifth day following the return date, the mortgagee or its counsel shall deliver to the mediator, via the electronic mail address provided for communications related to the mediation, and to the mortgagor, via first class, priority or overnight mail, (A) an account history identifying all credits and debits assessed to the loan account and any related escrow account in the immediately preceding twelve-month period and an itemized statement of the amount required to reinstate the mortgage loan with accompanying information, written in plain language, to explain any codes used in the history and statement which are not otherwise self-explanatory, (B) the name, business mailing address, electronic mail address, facsimile number and direct telephone number of an individual able to respond with reasonable adequacy and promptness to questions relative to the information submitted to the mediator pursuant to this subdivision, and any subsequent updates to such contact information, which shall be provided reasonably promptly to the mediator via the electronic mail address provided for communication related to the mediation, (C) current versions of all reasonably necessary forms and a list of all documentation reasonably necessary for the mortgagee to evaluate the mortgagor for common alternatives to foreclosure that are available through the mortgagee, if any, (D) a copy of the note and mortgage, including any agreements modifying such documents, (E) summary information regarding the status of any pending foreclosure avoidance efforts being undertaken

by the mortgagee, (F) a copy of any loss mitigation affidavit filed with the court, and (G) at the mortgagee's option, (i) the history of foreclosure avoidance efforts with respect to the mortgagor, (ii) information regarding the condition of mortgaged property, and (iii) such other information as the mortgagee may determine is relevant to meeting the objectives of the mediation program. Following the mediator's receipt of such information, the court shall assign a mediator to the mediation and schedule a meeting with the mediator and **[**the mortgagor**]** all mortgagors who are relevant and necessary to the mediation and to any agreement being contemplated in connection with the mediation and shall endeavor to hold such meeting on or prior to the forty-ninth day following the return date. The notice of such meeting shall instruct the mortgagor to complete the forms prior to the meeting and to furnish such forms together with the documentation contained in the list, as provided by the mortgagee following the filing of the foreclosure mediation certificate, at the meeting. At such meeting, the mediator shall review such forms and documentation with the mortgagor, along with the information supplied by the mortgagee, in order to discuss the options that may be available to the mortgagor, including any community-based resources, and assist the mortgagor in completing the forms and furnishing the documentation necessary for the mortgagee to evaluate the mortgagor for alternatives to foreclosure. The mediator may elect to schedule subsequent meetings with the mortgagor and determine whether any mortgagor may be excused from an in-person appearance at such subsequent meeting. The mediator may excuse any mortgagor from attending such meeting or any subsequent meetings, provided the mortgagor shows good cause for nonattendance. Such good cause may include, but is not limited to, the mortgagor no longer owning the home pursuant to a judgment of marital dissolution and related transfer via deed, or no longer residing in the home and not being a necessary party to any agreement being contemplated in connection with the mediation. As soon as practicable, but in no case later than the eighty-fourth day following the return date, or the extended deadline if such an extended deadline is established pursuant to this

subdivision, the mediator shall facilitate and confirm the submission by the mortgagor of the forms and documentation to the mortgagee's counsel via electronic means and, at the mortgagee's election, directly to the mortgagee per the mortgagee's instruction, and determine, based on the participating mortgagor's attendance at the meetings and the extent the mortgagor completed the forms and furnished the documentation contemplated in this subdivision, or failed to perform such tasks through no material fault of the mortgagee, and file a report with the court indicating, (I) whether mediation shall be scheduled with the mortgagee, (II) whether the mortgagor attended scheduled meetings with the mediator, (III) whether the mortgagor fully or substantially completed the forms and furnished the documentation requested by the mortgagee, (IV) the date on which the mortgagee supplied the forms and documentation, and (V) any other information the mediator determines to be relevant to the objectives of the mediation program. The mediator may file, and the court may grant, a motion for extension of the premediation period beyond the eighty-fourth day following the return date if good cause can be shown for such an extension. Any such motion shall be filed, with a copy simultaneously sent to the mortgagee and as soon as practicable to the mortgagor, not later than the eighty-fourth day following the return date. The mortgagee and mortgagor shall each have five business days from the day the motion was filed to file an objection or supplemental papers, and the court shall issue its ruling, without a hearing, not later than ten business days from the date the motion was filed. If the court determines that good cause exists for an extension, the court shall therewith establish an extended deadline so that the premediation period shall end as soon thereafter as may be practicable, but not later than thirty-five days from the date of the ruling, taking into account the complexity of the mortgagor's financial circumstances, the mortgagee's documentation requirements, and the timeliness of the mortgagee's and mortgagor's compliance with their respective premediation obligations. If the court denies the mediator's motion, the extended deadline for purposes of this subdivision shall be three days after the court rules on the motion. No meeting or communication

between the mediator and mortgagor under this subdivision shall be treated as an impermissible ex parte communication. If the mediator determines that the mortgagee shall participate in mediation, the court shall promptly issue notice to all parties of such determination and schedule a mediation session between the mortgagee and **[**mortgagor**]** all mortgagors who are relevant and necessary to the mediation and to any agreement being contemplated in connection with the mediation, in accordance with subsection (c) of section 49-31n, as amended by this act, to be held not later than five weeks following the submission to the mortgagee of the forms and documentation contemplated in this subdivision. The mediator may excuse any mortgagor from attending the mediation session or subsequent meetings, provided good cause is shown for nonattendance. Such good cause may include, but is not limited to, the mortgagor no longer owning the home pursuant to a judgment of marital dissolution and related transfer via deed, no longer residing in the home or not being a necessary party to any agreement being contemplated in connection with the mediation. If the mediator determines that no sessions between the mortgagee and mortgagor shall be scheduled, the court shall promptly issue notice to all parties regarding such determination and mediation shall be terminated. Any mortgagor wishing to contest such determination shall petition the court and show good cause for reinclusion in the mediation program, including, but not limited to, a material change in financial circumstances or a mistake or misunderstanding of the facts by the mediator.

Sec. 88. Subdivision (2) of subsection (b) of section 49-31n of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(2) The first mediation session shall be held not later than fifteen business days after the court sends notice to all parties that a foreclosure mediation request form has been submitted to the court. The mortgagor and mortgagee shall appear in person at each mediation session and shall have the ability to mediate, except that (A) if a party is represented by counsel, the party's counsel may appear in

lieu of the party to represent the party's interests at the mediation, provided the party has the ability to mediate, **[**the mortgagor attends the first mediation session in person,**]** and the party is available (i) during the mediation session by telephone, and (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the party and party s counsel, (B) following the initial mediation session, if there are two or more mortgagors who are self-represented, only one mortgagor shall be required to appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available (i) during the mediation session, and (ii) to participate in the mediation session by speakerphone, **[**and**]** (C) if a party suffers from a disability or other significant hardship that imposes an undue burden on such party to appear in person, the mediator may grant permission to such party to participate in the mediation session by telephone, and (D) a mortgagor may be excused from appearing at the mediation session if good cause is shown that the presence of such mortgagor is not needed to further the interests of mediation. Such good cause may include, but is not limited to, the mortgagor no longer owning the home pursuant to a judgment of marital dissolution and related transfer via deed, no longer residing in the home or not being a necessary party to any agreement being contemplated in connection with the mediation. A mortgagor's spouse, who is not a mortgagor but who lives in the subject property, may appear at each mediation session, provided all appearing mortgagors consent, in writing, to such spouse's appearance or such spouse shows good cause for his or her appearance and the mortgagors consent in writing to the disclosure of nonpublic personal information to such spouse. If the mortgagor has submitted a complete package of financial documentation in connection with a request for a particular foreclosure alternative, the mortgagee shall have thirty-five days from the receipt of the completed package to respond with a decision and, if the decision is a denial of the request, provide the reasons for such denial. If the mortgagor has, in connection with a request for a foreclosure alternative, submitted a financial package that is not complete, or if the mortgagee's evaluation

of a complete package reveals that additional information is necessary to underwrite the request, the mortgagee shall request the missing or additional information within a reasonable period of time of such evaluation. If the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the thirty-five-day deadline for a response shall be extended but only for so long as is reasonable given the timing of the mortgagor's submission of such additional information and the nature and context of the required underwriting. Not later than the third business day after each mediation session held on or after June 18, 2013, the mediator shall file with the court a report indicating, to the extent applicable, (i) the extent to which each of the parties complied with the requirements set forth in this subdivision, including the requirement to engage in conduct that is consistent with the objectives of the mediation program and to possess the ability to mediate, (ii) whether the mortgagor submitted a complete package of financial documentation to the mortgagee, (iii) a general description of the foreclosure alternative being requested by the mortgagor, (iv) whether the mortgagor has previously been evaluated for similar requests, whether prior to mediation or in mediation, and, if so, whether there has been any apparent change in circumstances since a decision was made with respect to that prior evaluation, (v) whether the mortgagee has responded to the mortgagor's request for a foreclosure alternative and, if so, a description of the response and whether the mediator is aware of any material reason not to agree with the response, (vi) whether the mortgagor has responded to an offer made by the mortgagee on a reasonably timely basis, and if so, an explanation of the response, (vii) whether the mortgagee has requested additional information from the mortgagor and, if so, the stated reasons for the request and the date by which such additional information shall be submitted so that information previously submitted by the mortgagor, to the extent possible, may still be used by the mortgagee in conducting its review, (viii) whether the mortgagor has supplied, on a reasonably timely basis, any additional information that was reasonably requested by the mortgagee, and, if not, the stated reason for not doing so, (ix) if

information provided by the mortgagor is no longer current for purposes of evaluating a foreclosure alternative, a description of the out-of-date information and an explanation as to how and why such information is no longer current, (x) whether the mortgagee has provided a reasonable explanation of the basis for a decision to deny a request for a loss mitigation option or foreclosure alternative and whether the mediator is aware of any material reason not to agree with that decision, (xi) whether the mortgagee has complied with the time frames set forth in this subdivision for responding to requests for decisions, (xii) if a subsequent mediation session is expected to occur, a general description of the expectations for such subsequent session and for the parties prior to such subsequent session and, if not otherwise addressed in the report, whether the parties satisfied the expectations set forth in previous reports, and (xiii) a determination of whether the parties will benefit from further mediation. The mediator shall deliver a copy of such report to each party to the mediation when the mediator files the report. The parties shall have the opportunity to submit their own supplemental information following the filing of the report, provided such supplemental information shall be submitted not later than five business days following the receipt of the mediator's report. Any request by the mortgagee to the mortgagor for additional or updated financial documentation shall be made in writing. The court may impose sanctions on any party or on counsel to a party if such party or such counsel engages in intentional or a pattern or practice of conduct during the mediation process that is contrary to the objectives of the mediation program. Any sanction that is imposed shall be proportional to the conduct and consistent with the objectives of the mediation program. Available sanctions shall include, but not be limited to, terminating mediation, ordering the mortgagor or mortgagee to mediate in person, forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney's fees, awarding attorney's fees, and imposing fines. In the case of egregious misconduct, the sanctions shall be heightened. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to

comply with this subdivision, unless the court finds reasonable cause for such failure.

Sec. 89. Section 49-24g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

When the court renders a judgment of market sale pursuant to section 49-24f, the court shall schedule, not later than thirty days from the date of the entry of a judgment of foreclosure by market sale in accordance with said section, right-of-first-refusal law days in **[**inverse**]** order of priority pursuant to which the subordinate lienholders may seek to preserve their interest in the equity in the residential real property by tendering to the person appointed to make the sale pursuant to section 49-24f the amount of the agreed upon price in the purchase and sale contract. If a subordinate lienholder takes no action to preserve such lienholder's interest in such equity on such lienholder's designated right-of-first-refusal law day, such lienholder's subordinate lien shall be extinguished upon passage of such law day. If a subordinate lienholder's action to preserve such lienholder's interest in the residential real property results in such lienholder purchasing such property, the purchaser indicated in the contract for the market sale executed in accordance with section 49-24e, as amended by this act, shall be entitled to reimbursement from the proceeds of the market sale of any costs and expenses associated with such contract as determined by the court pursuant to section 49-24f.

Sec. 90. Section 49-26 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

When a sale has been made pursuant to a judgment therefor and ratified by the court, a conveyance of the property sold shall be executed by the person appointed to make the sale, which conveyance shall vest in the purchaser the same estate that would have vested in the mortgagee or lienholder if the mortgage or lien had been foreclosed by strict foreclosure, and to this extent such conveyance shall be valid against all parties to the cause and their privies, but

against no other persons. The court, at the time of or after ratification of the sale, may order possession of the property sold to be delivered to the purchaser and may issue an execution of ejectment after the time for appeal of the ratification of the sale has expired. When a sale has been made pursuant to a foreclosure by market sale in accordance with sections 49-24 to 49-24g, inclusive, as amended by this act, 49-27 and 49-28, a conveyance of the property sold shall be executed by the person appointed to make the sale, which conveyance shall be valid against all parties to the cause and their privies, **[**but against no other persons**]** and all parties subject to the action by virtue of section 52-325. The court, at the time of or after the sale in the case of a foreclosure by market sale may order possession of the property sold to be delivered to the purchaser and may issue an execution of ejectment after the time for appeal of the judgment of foreclosure by market sale has expired.

Sec. 91. Subsection (a) of section 12-498 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(a) The tax imposed by section 12-494 shall not apply to: (1) Deeds which this state is prohibited from taxing under the Constitution or laws of the United States; (2) deeds which secure a debt or other obligation; (3) deeds to which this state or any of its political subdivisions or its or their respective agencies is a party; (4) tax deeds; (5) deeds of release of property which is security for a debt or other obligation; (6) deeds of partition; (7) deeds made pursuant to mergers of corporations; (8) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock; (9) deeds made pursuant to a decree of the Superior Court under section 46b-81, 49-24, as amended by this act, or 52-495 or pursuant to a judgment of foreclosure by market sale under section 49-24, as amended by this act, or pursuant to a judgment of loss mitigation under section 77 or 78 of this act; (10) deeds, when the consideration for the interest or property conveyed is less than two thousand dollars; (11) deeds between affiliated corporations, provided both of such corporations are exempt from

taxation pursuant to paragraph (2), (3) or (25) of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended; (12) deeds made by a corporation which is exempt from taxation pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, to any corporation which is exempt from taxation pursuant to said paragraph (3) of said Section 501(c); (13) deeds made to any nonprofit organization which is organized for the purpose of holding undeveloped land in trust for conservation or recreation purposes; (14) deeds between spouses; (15) deeds of property for the Adriaen's Landing site or the stadium facility site, for purposes of the overall project, each as defined in section 32-651; (16) land transfers made on or after July 1, 1998, to a water company, as defined in section 16-1, provided the land is classified as class I or class II land, as defined in section 25-37c, after such transfer; (17) transfers or conveyances to effectuate a mere change of identity or form of ownership or organization, where there is no change in beneficial ownership; (18) conveyances of residential property which occur not later than six months after the date on which the property was previously conveyed to the transferor if the transferor is (A) an employer which acquired the property from an employee pursuant to an employee relocation plan, or (B) an entity in the business of purchasing and selling residential property of employees who are being relocated pursuant to such a plan; (19) deeds in lieu of foreclosure that transfer the transferor's principal residence; and (20) any instrument transferring a transferor's principal residence where the gross purchase price is insufficient to pay the sum of (A) mortgages encumbering the property transferred, and (B) any real property taxes and municipal utility or other charges for which the municipality may place a lien on the property and which have priority over the mortgages encumbering the property transferred.

Sec. 92. Subdivision (2) of subsection (c) of section 49-31n of the

general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2016*):

(2) The mortgagor and mortgagee shall appear in person at each mediation session and shall have the ability to mediate, except that (A) if a party is represented by counsel, the party's counsel may appear in lieu of the party to represent the party's interests at the mediation, provided the party has the ability to mediate, the mortgagor attends the first mediation session in person and the party is available (i) during the mediation session by telephone, and (ii) to participate in the mediation session by speakerphone, provided an opportunity is afforded for confidential discussions between the party and party's counsel, (B) following the initial mediation session, if there are two or more mortgagors who are self-represented, only one mortgagor shall be required to appear in person at each subsequent mediation session unless good cause is shown, provided the other mortgagors are available (i) during the mediation session, and (ii) to participate in the mediation session by speakerphone, **[**and**]** (C) if a party suffers from a disability or other significant hardship that imposes an undue burden on such party to appear in person, the mediator may grant permission to such party to participate in the mediation session by telephone, and (D) a mortgagor may be excused from appearing at the mediation session if cause is shown that the presence of such mortgagor is not needed to further the interests of mediation. Such cause may include, but is not limited to, the mortgagor no longer owning the home pursuant to a judgment of marital dissolution and related transfer via deed or no longer residing in the home or not being a necessary party to any agreement being contemplated in connection with the mediation. A mortgagor's spouse, who is not a mortgagor but who lives in the subject property, may appear at each mediation session, provided all appearing mortgagors consent, in writing, to such spouse s appearance or such spouse shows good cause for his or her appearance and the mortgagors consent, in writing, to the disclosure of nonpublic personal information to such spouse. If the mortgagor has submitted a complete package of financial documentation in

connection with a request for a particular foreclosure alternative, the mortgagee shall have thirty-five days from the receipt of the completed package to respond with a decision and, if the decision is a denial of the request, provide the reasons for such denial. If the mortgagor has, in connection with a request for a foreclosure alternative, submitted a financial package that is not complete, or if the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the mortgagee shall request the missing or additional information within a reasonable period of time of such evaluation. If the mortgagee's evaluation of a complete package reveals that additional information is necessary to underwrite the request, the thirty-five-day deadline for a response shall be extended but only for so long as is reasonable given the timing of the mortgagor's submission of such additional information and the nature and context of the required underwriting. Not later than the third business day after each mediation session, the mediator shall file with the court a report indicating, to the extent applicable, (i) the extent to which each of the parties complied with the requirements set forth in this subdivision, including the requirement to engage in conduct that is consistent with the objectives of the mediation program and to possess the ability to mediate, (ii) whether the mortgagor submitted a complete package of financial documentation to the mortgagee, (iii) a general description of the foreclosure alternative being requested by the mortgagor, (iv) whether the mortgagor has previously been evaluated for similar requests, whether prior to mediation or in mediation, and, if so, whether there has been any apparent change in circumstances since a decision was made with respect to that prior evaluation, (v) whether the mortgagee has responded to the mortgagor's request for a foreclosure alternative and, if so, a description of the response and whether the mediator is aware of any material reason not to agree with the response, (vi) whether the mortgagor has responded to an offer made by the mortgagee on a reasonably timely basis, and if so, an explanation of the response, (vii) whether the mortgagee has requested additional information from the mortgagor and, if so, the stated reasons for the request and the date by which such additional

information shall be submitted so that information previously submitted by the mortgagor, to the extent possible, may still be used by the mortgagee in conducting its review, (viii) whether the mortgagor has supplied, on a reasonably timely basis, any additional information that was reasonably requested by the mortgagee, and, if not, the stated reason for not doing so, (ix) if information provided by the mortgagor is no longer current for purposes of evaluating a foreclosure alternative, a description of the out-of-date information and an explanation as to how and why such information is no longer current, (x) whether the mortgagee has provided a reasonable explanation of the basis for a decision to deny a request for a loss mitigation option or foreclosure alternative and whether the mediator is aware of any material reason not to agree with that decision, (xi) whether the mortgagee has complied with the time frames set forth in this subdivision for responding to requests for decisions, (xii) if a subsequent mediation session is expected to occur, a general description of the expectations for such subsequent session and for the parties prior to such subsequent session and, if not otherwise addressed in the report, whether the parties satisfied the expectations set forth in previous reports, and (xiii) a determination of whether the parties will benefit from further mediation. The mediator shall deliver a copy of such report to each party to the mediation when the mediator files the report. The parties shall have the opportunity to submit their own supplemental information following the filing of the report, provided such supplemental information shall be submitted not later than five business days following the receipt of the mediator's report. Any request by the mortgagee to the mortgagor for additional or updated financial documentation shall be made in writing. The court may impose sanctions on any party or on counsel to a party if such party or such counsel engages in intentional or a pattern or practice of conduct during the mediation process that is contrary to the objectives of the mediation program. Any sanction that is imposed shall be proportional to the conduct and consistent with the objectives of the mediation program. Available sanctions shall include, but not be limited to, terminating mediation, ordering the mortgagor or

mortgagee to mediate in person, forbidding the mortgagee from charging the mortgagor for the mortgagee's attorney's fees, awarding attorney's fees, and imposing fines. In the case of egregious misconduct, the sanctions shall be heightened. The court shall not award attorney's fees to any mortgagee for time spent in any mediation session if the court finds that such mortgagee has failed to comply with this subdivision, unless the court finds reasonable cause for such failure.

Sec. 93. (*Effective July 1, 2016*) Within available appropriations and not later than October 1, 2016, the committee having jurisdiction over all matters related to banking shall, in consultation with representatives of state agencies and departments, financial institutions, mortgage servicers, attorneys with experience in foreclosure law and municipalities, convene a working group to develop recommendations regarding methods to expedite foreclosures with respect to properties that have been abandoned. On or before January 1, 2017, said working group shall submit its finding to the committee having jurisdiction over all matters related to banking.

Sec. 94. Sections 49-31t and 49-31u of the general statutes are repealed. (*Effective October 1, 2016*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	36a-448a(b)
Sec. 2	*from passage*	36a-34(a)(1)
Sec. 3	*from passage*	36a-333(b)(1)
Sec. 4	*from passage*	36a-70(q)
Sec. 5	*from passage*	36a-21(a)
Sec. 6	*October 1, 2016*	New section
Sec. 7	*July 1, 2016*	36a-597(a)
Sec. 8	*July 1, 2016*	36a-716
Sec. 9	*July 1, 2016*	36b-3(1)
Sec. 10	*from passage*	36b-6(a)
Sec. 11	*from passage*	36b-14
Sec. 12	*from passage*	36b-21(e)

Sec. 13	*from passage*	36b-31(d)
Sec. 14	*October 1, 2016*	36a-773
Sec. 15	*from passage*	New section
Sec. 16	*October 1, 2016*	36a-774
Sec. 17	*October 1, 2016*	36a-778
Sec. 18	*October 1, 2016*	36a-785
Sec. 19	*July 1, 2016*	36a-555
Sec. 20	*July 1, 2016*	36a-556
Sec. 21	*July 1, 2016*	36a-557
Sec. 22	*July 1, 2016*	36a-558
Sec. 23	*July 1, 2016*	36a-559
Sec. 24	*July 1, 2016*	36a-560
Sec. 25	*July 1, 2016*	36a-561
Sec. 26	*July 1, 2016*	36a-562
Sec. 27	*July 1, 2016*	36a-563
Sec. 28	*July 1, 2016*	36a-564
Sec. 29	*July 1, 2016*	36a-565
Sec. 30	*July 1, 2016*	36a-566
Sec. 31	*July 1, 2016*	36a-567
Sec. 32	*July 1, 2016*	36a-568
Sec. 33	*July 1, 2016*	36a-569
Sec. 34	*July 1, 2016*	36a-570
Sec. 35	*July 1, 2016*	36a-572
Sec. 36	*July 1, 2016*	36a-573
Sec. 37	*July 1, 2016*	47a-21
Sec. 38	*July 1, 2016*	New section
Sec. 39	*July 1, 2016*	3-70a(e)
Sec. 40	*July 1, 2016*	16-262j
Sec. 41	*July 1, 2016*	37-9
Sec. 42	*July 1, 2016*	49-2a
Sec. 43	*October 1, 2016*	49-31p(a)
Sec. 44	*October 1, 2016*	49-31q
Sec. 45	*from passage*	36a-65(a)
Sec. 46	*October 1, 2016*	36a-719h
Sec. 47	*October 1, 2016*	36a-800
Sec. 48	*October 1, 2016*	36a-801(a)
Sec. 49	*October 1, 2016*	36a-802(a)
Sec. 50	*October 1, 2016*	36a-805(a)
Sec. 51	*October 1, 2016*	36a-811(b)
Sec. 52	*October 1, 2016*	New section

Sec. 53	*October 1, 2016*	New section
Sec. 54	*October 1, 2016*	36a-648(a)
Sec. 55	*October 1, 2016*	36a-701
Sec. 56	*October 1, 2016*	36a-701a
Sec. 57	*from passage*	42a-4-406(f)
Sec. 58	*October 1, 2016*	36a-785(b) and (c)
Sec. 59	*October 1, 2016*	New section
Sec. 60	*October 1, 2016*	New section
Sec. 61	*July 1, 2016*	36a-849
Sec. 62	*July 1, 2016*	36a-850
Sec. 63	*October 1, 2016*	New section
Sec. 64	*July 1, 2016*	45a-107b
Sec. 65	*from passage*	New section
Sec. 66	*from passage*	New section
Sec. 67	*from passage*	New section
Sec. 68	*from passage*	New section
Sec. 69	*from passage*	New section
Sec. 70	*from passage*	New section
Sec. 71	*from passage*	New section
Sec. 72	*from passage*	New section
Sec. 73	*October 1, 2016*	New section
Sec. 74	*October 1, 2016*	New section
Sec. 75	*October 1, 2016*	New section
Sec. 76	*October 1, 2016*	New section
Sec. 77	*October 1, 2016*	New section
Sec. 78	*October 1, 2016*	New section
Sec. 79	*October 1, 2016*	New section
Sec. 80	*October 1, 2016*	New section
Sec. 81	*October 1, 2016*	49-24b(a) and (b)
Sec. 82	*October 1, 2016*	49-24e(a) and (b)
Sec. 83	*October 1, 2016*	49-24
Sec. 84	*October 1, 2016*	49-24a
Sec. 85	*October 1, 2016*	49-31e
Sec. 86	*October 1, 2016*	49-22
Sec. 87	*October 1, 2016*	49-31l(c)(4)
Sec. 88	*October 1, 2016*	49-31n(b)(2)
Sec. 89	*October 1, 2016*	49-24g
Sec. 90	*October 1, 2016*	49-26
Sec. 91	*October 1, 2016*	12-498(a)
Sec. 92	*October 1, 2016*	49-31n(c)(2)

Sec. 93	*July 1, 2016*	New section
Sec. 94	*October 1, 2016*	Repealer section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note
State Impact:

Agency Affected	Fund-Effect	FY 17 $	FY 18 $
Banking Dept.	BF - Potential Revenue Gain	Less than $3,500	Less than $2,000
Department of Housing	GF - Potential Cost	Up to $25,000	None
Various State Agencies	GF - Potential Cost	Less than $1,000	None

Note: BF=Banking Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill results in potential revenue gains to the Banking Fund and potential one-time costs described below.

Section 45 allows the Department of Banking to assess licensed money transmitters and student loan servicers to meet the expenses of the department. Should an assessment be levied, it would result in additional Banking Fund revenue.

Section 47 clarifies that consumer collection agencies are subject to state licensure if they collect federal income tax debt on behalf of the U.S. Department of Treasury from debtors who reside in Connecticut. To the extent that this results in additional collection agencies being licensed, an increase in revenue to the Banking Fund will occur. The initial license cost is $500 ($400 licensing fee and $100 investigation fee) and the annual renewal fee is $400. Approximately two licenses are anticipated, resulting in revenue of $1,000 in FY 17 and FY 18.

Section 63 results in a potential one-time cost of up to $25,000 to the Department of Housing for the establishment of a credit building pilot

program in up to three distressed municipalities. This reflects a rent-reporting software expense. However, since the language specifies that the program is established within available appropriations, the cost is described as potential.

Sections 65 - 71 establish an international trade and investment corporation license that may be issued by the Commissioner of Banking. To the extent that this results in new licenses being issued, increased revenue to the Banking Fund will occur. The initial license cost is $2,500 and the renewal cost is $1,000. Approximately one license is anticipated, resulting in potential revenue of $2,500 in FY 17 and $1,000 in FY 18

Section 72 requires the Treasurer, within available appropriations, to report on a mechanism for converting an education saving plan[1] to an ABLE account.[2] This does not result in a fiscal impact as the Office of the State Treasurer has the necessary expertise to report on this subject.

Section 93 requires the Banking Committee to convene a working group, within available appropriations, to develop recommendations regarding methods to expedite foreclosure of abandoned properties. There may be a cost of less than $1,000 in FY 17 to agencies participating in the working group to reimburse agency staff for mileage expenses.

House "A" strikes the underlying bill and replaces it with language that results in the fiscal impact described above.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of licenses.

[1]As described in Section 529 of the Internal Revenue Code.
[2]The 2014 federal ABLE Act (P. L. 113-295) allows states to establish and maintain qualified ABLE (A Better Life Experience) programs.

OLR Bill Analysis

sHB 5571 (as amended by House "A")*

AN ACT CONCERNING CONSUMER COLLECTION AGENCIES AND DEBT COLLECTION ACTIONS.

SUMMARY:

This bill makes numerous changes to provisions governing foreclosures, small loans, and consumer collection agencies. It also makes changes to other banking-related laws.

With regard to the foreclosure-related provisions, the bill, among other things:

1. creates a new process whereby a court may enter a judgment of loss mitigation which allows (a) certain "underwater mortgages" to be modified without a junior lienholder's consent or (b) the mortgagor (borrower) to satisfy his or her obligation by conveying the property using a transfer agreement;

2. makes changes to the foreclosure mediation program including, (a) authorizing mediators to excuse certain parties from mediation sessions for good cause and (b) eliminating the requirement that a mortgagee (lender) provide a certificate of good standing to a mortgagor who has completed the mediation program; and

3. modifies the foreclosure by market sale process by, among other things, (a) eliminating certain mortgagee notice and affidavit requirements and (b) allowing a mortgagee, under certain circumstances, to file a motion for judgment of foreclosure by market sale within 30 days of receipt of a sales contract or the

expiration or satisfaction of any contingencies.

Regarding the changes to the small loan statutes, the bill, among other things, expands the scope of activities that require licensure and simplifies the definition of a "small loan," which under the bill is any monetary loan or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the amount or value is $15,000 or less and the Annual Percentage Rate (APR) is greater than 12%. It also converts the existing interest rate structure to an APR capped at the maximum 36% allowed under the federal Military Lending Act. It requires small loan licensure to be done through the Nationwide Mortgage Licensing System and Registry (NMLS or "the system") and changes the license application fee structure and the length of time a license remains valid. It establishes permitted and prohibited licensee practices and loan provisions.

Among other things, the bill addresses:

1. creditors and consumer collection agencies, including expanding the consumer collection agency law to include specified persons that collect federal income tax debt;

2. mortgage servicer escrow accounts;

3. retail installment loans;

4. tenant's security deposits;

5. tenants of foreclosed property;

6. possessions inside repossessed vehicles;

7. student loan servicers;

8. a pilot program for local housing authorities to use rental payments as a means of building tenants' credit;

9. licensing international trade and investment corporations; and

10. a report by the treasurer on a way to convert an education savings plan into an Achieving a Better Life Experience (ABLE) account.

The bill also makes numerous technical and conforming changes.

A section-by-section analysis follows.

*House Amendment "A" strikes the original bill (File 417). It makes various changes to the underlying bill, such as (1) removing a provision that would prohibit consumer collection agencies from assessing any interest, fees, charges, or expenses on the debts they attempt to collect and (2) modifying the bill's procedural requirements for consumer debt collection actions, including applying certain requirements to collection agencies only. It also adds all the other provisions.

EFFECTIVE DATE: Various, see below.

§ 1 — TROUBLED CREDIT UNIONS

The bill requires the banking commissioner to approve the election, appointment, or employment of any potential member of a troubled Connecticut credit union's senior management. The law already requires him to approve the election or appointment of a director to the credit union's governing board.

By law, a troubled credit union is one the commissioner determines in writing is (1) in danger of becoming insolvent; (2) not likely to be able to meet its members' demands or pay its normal obligations or is likely to incur losses that substantially deplete its capital; or (3) operating in an unsafe and unsound manner.

EFFECTIVE DATE: Upon passage

§ 2 — BANK CAPITAL

The bill updates certain capital requirements to match those in federal law.

EFFECTIVE DATE: Upon passage

§ 3 — COMMISSIONER'S INTEREST IN CERTAIN BANK COLLATERAL

The law requires certain public depositories to maintain certain amounts of collateral for their uninsured deposits in segregated trust accounts. Current law gives the commissioner a perfected security interest in the collateral for the benefit of public depositors, pursuant to an agreement between the depositor and the depository. The bill eliminates the need for the agreement in order for the commissioner to have a perfected interest. Generally, someone with a perfected interest has priority over those who later claim an interest in the same property.

EFFECTIVE DATE: Upon passage

§ 4 — BANKERS' BANK

The bill expands, to banks and credit unions in any state or a bank holding company owned exclusively by a combination of them, the ability to join a group of banks that owns a Connecticut-chartered bankers' bank. Current law allows only banks and credit unions in Connecticut, other New England states, New Jersey, New York, and Pennsylvania to join.

A "bankers' bank" is a wholesale bank that provides services to other banks and their directors, officers, and employees. It does not engage in retail banking.

EFFECTIVE DATE: Upon passage

§ 5 — CONFIDENTIAL RECORDS

The law generally makes confidential and prohibits disclosure by the Banking Department of confidential supervisory or investigative information the department obtains from regulatory or law enforcement agencies of other states, the federal government, or foreign countries. The bill also applies these rules to other confidential records from these agencies.

EFFECTIVE DATE: Upon passage

§ 6 — MARTIN LUTHER KING, JR. CORRIDORS

The bill requires the commissioner to designate three Martin Luther King, Jr. Corridors to promote secured and unsecured lending in the state. The bill does not provide additional details on these corridors.

EFFECTIVE DATE: October 1, 2016

§ 7 — TECHNICAL CHANGE

EFFECTIVE DATE: July 1, 2016

§ 8 — MORTGAGE SERVICER ESCROW ACCOUNTS

By law, a mortgage servicer holding a mortgagor's funds in escrow to pay taxes and insurance premiums must use the money to pay the taxes and premiums when they are due. The bill requires servicers to keep records of each escrow account's handling, including amounts paid into and from the account and the initial and annual escrow statements required by federal regulations. The servicer must keep the records for at least five years after last servicing the account and they may do so through electronic, microfiche, or any computerized storage, as long as the information is readily retrievable.

The bill also requires licensed servicers, and certain mortgage lenders and correspondent lenders that are exempt from licensure, to deposit or invest these escrow funds in one or more segregated deposit or trust accounts with a federally insured bank, Connecticut or federal credit union, or out-of-state bank. The accounts must be reconciled monthly, including through monthly account statements from the depository institution if the:

1. institution maintains the accounts in a way that reasonably reflects that the funds are for escrow purposes;

2. funds are not comingled with the servicer's funds and are not used for the servicer's business expenses; and

3. servicer adopts, implements, and maintains internal accounting controls reasonably designed to ensure compliance with the provisions governing escrow funds.

EFFECTIVE DATE: July 1, 2016

§§ 9-13 — REFERENCES TO FEDERAL LAW

The bill updates various references to federal securities law.

EFFECTIVE DATE: Upon passage, except one technical change is effective July 1, 2016

§§ 14-18 — RETAIL INSTALLMENT LOANS

Insurance Refunds

The bill requires the holder of a retail installment contract, under certain circumstances, to apply any unearned insurance premiums toward a retail buyer's outstanding obligations under such contract. This applies when goods have been repossessed and the contract holder has received a refund of the unearned insurance premiums paid by the retail buyer.

Under the bill, "unearned insurance premiums" are premiums collected by an insurer in advance but subject to return if the coverage under the insurance contract or contracts ends before the term expires.

Records

On and after October 1, 2016, the bill requires sales finance companies to acquire and maintain adequate records in the form and manner the commissioner directs for each retail installment contract acquired by purchase, discount, pledge, loan, advance, or by other means.

The bill appears to require any application for a retail installment contract involving the retail sale of a motor vehicle in Connecticut that has been reviewed by the sales finance company or relates to such contract acquired by the company to include certain information. It must include the:

1. applicant's and any co-applicant's name, address, income, and credit score, and if known, their ethnicity, race, and sex;

2. type, amount, and annual percentage rate of the loan; and

3. application results.

These records must be made available to the banking commissioner within five business days after he requests them.

Each sales finance company must retain the records of (1) denied applications for at least two years after the application date and (2) acquired applications for at least two years after the date of the final payment, sale, or assignment of the contract, whichever occurs first, or a longer period if required by law.

The bill requires each sales finance company to provide the commissioner, by January 30, 2017, the records collected between October 1, 2016 and December 31, 2016.

Service Fee Limits

The law, with some exceptions, prohibits a retail installment contract holder from receiving or collecting any charges or expenses for delinquent payment collections. The bill specifies that this includes any service fees for accepting delinquent payments over the telephone or Internet.

Notice of Intention to Repossess

By law, a retail contract holder must serve notice to a defaulted retail buyer at least 10 days before retaking the goods. The notice must state that the retail buyer is in default and when the goods will be retaken. Under the bill, such notice must also indicate (1) what the buyer is required to do in order to cure the default, including the dollar amount of any required payment, and (2) when the cure period ends.

Fair Market Value of Repossessed Cars and Boats

Aggregate Cash Price. The bill increases, from $2,000 to $4,000, the aggregate cash price above which the prima facie fair market value of a repossessed motor vehicle or boat must be calculated.

Calculating Fair Market Value. Under the bill, fair market value of the vehicle or boat is the average of the average trade-in value and the highest-stated retail value. This is a higher value than under current law, which uses the average values rather than the highest-stated values for this calculation.

By law, these values must be as stated in the National Automobile Dealers Association Used Car Guide, Eastern Edition or National Automobile Dealers Association Guide for Boats, Eastern Edition, as applicable.

EFFECTIVE DATE: Upon passage, except the records provision is effective upon passage.

§§ 19-36 — SMALL LOAN LICENSEES

The bill revises the small loan statutes and in doing so, it:

1. expands the scope of activities, beyond the making of a loan, that require licensure, such as offering, soliciting, servicing, purchasing, assigning, or advertising small loans;

2. establishes a comprehensive list of permitted and prohibited licensee practices and loan provisions;

3. defines "small loan" as any monetary loan or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the amount or value is $15,000 or less and the Annual Percentage Rate (APR) is greater than 12%;

4. converts the existing interest rate structure to an APR that is capped at the maximum 36% allowed under the federal Military Lending Act;

5. requires small loan licensure to be done through the Nationwide Mortgage Licensing System and Registry (NMLS or "the system")(see BACKGROUND);

6. changes the license application fee structure and the length of time a license remains valid; and

7. with some exceptions, voids any small loan made in connection with unlicensed activity, noncompliance with statutory restrictions, or prohibited licensee conduct.

EFFECTIVE DATE: July 1, 2016

Definitions (§ 19)

The bill defines the following terms for use throughout the small loan statutes:

"Advertise" or "advertising" means any announcement, statement, assertion or representation placed before the public in a newspaper, magazine or other publication, in the form of a notice, circular, pamphlet, letter, or poster, over any radio or television station, by means of the Internet, other electronic means of distributing information, personal contact, or in any other way or medium.

"APR" means the annual percentage rate for the loan calculated according to the provisions of the federal Truth-in-Lending Act and its implementing regulations. "Disclosed APR" means the APR disclosed, as applicable, pursuant to federal regulations on open-end and close-end credit. If more than one APR is disclosed, the "disclosed APR" is the highest APR disclosed.

"Branch office" means a location other than the main office where the licensee, or any person on behalf of the licensee, engages in activities that require a small loan license.

"Connecticut borrower" means any borrower who resides in or maintains a domicile in this state and who:

1. negotiates or agrees to the terms of the small loan in person, by mail, by telephone, or via the Internet while physically present in this state;

2. enters into or executes a small loan agreement with the lender in person, by mail, by telephone, or via the Internet while physically present in this state; or

3. makes a payment on the loan in this state, including a debit on an account the borrower holds in a branch of a financial institution or the use of a negotiable instrument drawn on an account at a financial institution (i.e., any bank or credit union chartered or licensed under the laws of this state, any other state, or the United States and having its main office or a branch office in Connecticut).

"Control person" means an individual that directly or indirectly exercises control over another person, and includes any person that:

1. is a director, general partner or executive officer;

2. in the case of a corporation, directly or indirectly has the right to vote 10% or more of a class of any voting security or has the power to sell or direct the sale of 10% or more of any class of voting securities;

3. in the case of a limited liability company, is a managing member; or

4. in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital.

"Control" means the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract or otherwise.

"Lead" means any information identifying a potential small loan consumer.

"Generating leads" means:

1. engaging in the business of selling leads for small loans;

2. generating or augmenting leads for small loans for other persons for or with the expectation of compensation or gain; or

3. referring consumers to other persons for a small loan for, or with the expectation of, compensation or gain for such referral, excluding generating or augmenting leads for small loans for an exempt person (see below), using the exempt person's data or customer information.

"Main office" means the main address designated on the system where the licensee, or any person on behalf of the licensee, engages in activities requiring a small loan license.

"Open-end small loan" means consumer credit extended by a creditor under a plan in which the (1) creditor reasonably contemplates repeated transactions and may impose a finance charge from time to time on an outstanding unpaid balance and (2) amount of credit that may be extended to the consumer during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

"Person" means a natural person, corporation, company, limited liability company, partnership or association.

"Small loan" means any loan of money or extension of credit, or the purchase of, or an advance of money on, a borrower's future income where the amount or value is $15,000 or less and the APR is greater than 12%. Small loan does not include:

1. a retail installment contract;

2. a loan or extension of credit for agricultural, commercial, industrial, or government use;

3. a residential mortgage loan (i.e., any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or residential real estate on which a dwelling is constructed or will be constructed); or

4. an open-end credit account that is accessed by a credit card issued by a federally insured bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union.

"Future income" means any future potential source of money, and expressly includes a future pay or salary, pension, or tax refund.

"Trigger lead" means a consumer report obtained pursuant to the Fair Credit Reporting Act (15 USC § 1681b) where the issuance of the report is triggered by an inquiry made to a consumer reporting agency in response to an application for credit. Trigger lead does not include a consumer report obtained by a small loan lender that holds or services existing indebtedness of the applicant who is the subject of the report.

"Unique identifier" means a number or other identifier assigned by protocols established by the system.

Licensure Required (§ 20)

As under existing law, the bill requires anyone engaged in making small loans to a Connecticut borrower to first obtain a license from the Banking Department. Under the bill, licensure is also required for anyone who, with respect to a prospective Connecticut borrower:

1. offers, solicits, brokers, directly or indirectly arranges, places, or finds a small loan;

2. engages in any other activity intended to assist the borrower in obtaining a small loan, including, but not limited to, generating leads;

3. receives payments of principal and interest in connection with the loan;

4. purchases, acquires, or receives assignment of such a loan; or

5. advertises a small loan or related services in Connecticut.

The bill prohibits anyone from accepting, from a person who is not licensed or exempt from licensure, any lead, referral, or application for a small loan to a prospective Connecticut borrower.

It also prohibits anyone from selling, transferring, pledging, assigning, or otherwise disposing of, to a person who is not licensed or exempt from licensure, any small loan made to a Connecticut borrower.

Exemptions (§ 21)

Licensure Exemption. The bill exempts the following persons from small loan licensure:

1. a licensed pawnbroker;

2. a licensed consumer collection agency, when engaged in the activities of a consumer collection agency in the normal course of business;

3. a small loan servicer for an exempt person who owns the small loans, provided the servicing arrangements include receiving payments of principal and interest in connection with the small loans and providing accounting, recordkeeping, and data processing services;

4. a passive buyer of a small loan (a "passive buyer" is a person who: (a) has acquired a small loan from a licensee or exempt person for investment purposes, (b) will receive the principal and interest and any other moneys due under the small loan, and (c) has had and will have no communications of any kind with the Connecticut borrower regarding the small loan it has

acquired);

5. a consumer reporting agency when generating leads; and

6. a retail seller who offers, extends, or facilitates credit through an open-end or closed-end credit plan for the purchase of goods or services from such retail seller.

Exempt Entities. The following entities are exempt from the small loan statutes:

1. any federally insured bank, out-of-state bank, Connecticut credit union, federal credit union, or out-of-state credit union;

2. any wholly-owned subsidiary of such bank or credit union; and

3. any operating subsidiary where each owner of such operating subsidiary is wholly owned by the same bank or credit union.

Exempt Loans. The bill exempts from the small loan statutes any loan that is made by an exempt entity. This includes the provisions applicable to licensed persons, even if:

1. the exempt person utilizes the services of a person exempt from licensing or required to be licensed in connection with the small loans that are made by the exempt person and

2. a person exempt from licensing or required to be licensed engages in activities intended to assist a prospective Connecticut borrower or a Connecticut borrower in obtaining a small loan that is made or will be made by an exempt entity.

The bill specifies that it must not be construed as exempting persons required to be licensed from the licensure requirements. It prohibits a licensee, or anyone required to be licensed, from engaging in any activity that requires licensing for any small loan that has a disclosed APR greater than 36% if that small loan contains any condition or provision inconsistent with the requirements summarized below.

Small Loan Activities By Licensees and Exempt Entities (§ 22)

Under the bill, except as provided for exempt loans described above, a small loan licensee or anyone who is required to have a small loan license may not make; offer; solicit, broker, arrange, place, find, assist borrowers with; receive payments in connection with; purchase, acquire, or receive assignment of; or advertise small loans with conditions or provisions inconsistent with the bill's requirements. Also, banks, credit unions, or other exempt entities may not receive payments in connection with; purchase, acquire, or receive assignment of; or advertise small loans with provisions inconsistent with the bill's requirements. Any such small loan is unenforceable in Connecticut except for a bona fide error (e.g., clerical, calculation, programming, or printing errors) or if the loan was valid under another state's law and the borrower was not a Connecticut resident at the time of the loan's inception, but has since become a Connecticut borrower.

Small Loan-Related Activities. Small loan-related activities are those activities that involve making; offering; soliciting; brokering; arranging; placing; finding; assisting with; receiving payments for; purchasing; advertising; or acceptance of leads, referrals, or applications of small loans. Small loans that are the subject of the activities listed above must not contain:

1. for a small loan that is under $5,000, an APR that exceeds the 36% maximum APR permitted with respect to the consumer credit extended under the federal Military Lending Act, or for a small loan that is between $5,000 and $15,000, an APR that exceeds 25% as calculated under the Military Lending Act;

2. for small loans that are not open end-loans, a provision that increases the interest rate due to default;

3. a payment schedule with regular periodic payments that when aggregated do not fully amortize the outstanding principal balance;

4. a payment schedule with regular periodic payments that cause the principal balance to increase;

5. a payment schedule that consolidates more than two periodic payments and pays them in advance from the proceeds, unless such payments are required to be escrowed by a governmental agency;

6. a prepayment penalty;

7. an adjustable rate provision;

8. a waiver of participation in a class action or a provision requiring a borrower, whether acting individually or on behalf of others similarly situated, to assert any claim or defense in a nonjudicial forum that: (a) utilizes principles that are inconsistent with the general statutes or common law or (b) limits any claim or defense the borrower may have;

9. a call provision that permits the lender, in its sole discretion, to accelerate the indebtedness, except when repayment of the loan is accelerated by a bona fide default pursuant to a due-on-sale clause;

10. a security interest, except as described below; or

11. fees or charges of any kind, except as expressly permitted below.

Small Loans That Are the Subject of Licensees' and Exempt Entities' Activities (Described Above). Small loans that are the subject of licensees' and exempt entities' activities may contain provisions:

1. for late fees, if: (a) the fees are assessed after an installment remains unpaid for at least ten consecutive days, including Sundays and holidays; (b) the fees do not exceed the lesser of 5% of the outstanding installment payment, excluding any

previously assessed late fees, or a total of $25 per month; and (c) no interest is charged on the fees;

2. allowing charges for a dishonored check or any other form of returned payment, provided the total fee for such returned payment cannot exceed $20;

3. allowing for collection of deferral charges, but only with the specific written authorization of the borrower and in a total amount not exceeding the interest due during the applicable billing cycle;

4. allowing interest accrual after the maturity date or the deferred maturity date, provided the interest must not exceed 12% per annum computed on a daily basis on the respective unpaid balances;

5. providing for reasonable attorney's fees;

6. including credit life insurance or credit accident and health insurance subject to certain conditions and restrictions; or

7. taking a security interest in a motor vehicle in connection with a closed-end small loan made solely for the purchase or refinancing of such motor vehicle, provided the APR of the loan must not exceed the rates indicated for the respective classifications of motor vehicles as follows: (a) new motor vehicles, 15%; (b) used motor vehicles of a model designated by the manufacturer by a year not more than two years prior to the year in which the sale is made, 17%; and (c) used motor vehicles of a model designated by the manufacturer by a year more than two years prior to the year in which the sale is made, 19%.

Open-end Small Loans – Additional Requirements. Open-end small loans, in addition to all the requirements listed above, must:

1. not provide for an advance of money exceeding at any one time an unpaid principal of $15,000;

2. provide for payments and credits to be made to the same borrower's account from which advances, interest, charges, and costs on such loan are debited;

3. provide for interest to be computed on any unpaid principal balance of the account in each billing cycle by one of the following methods: (a) converting the APR to a daily rate and multiplying such daily rate by the daily unpaid principal balance of the account, in which case the daily rate is determined by dividing the APR by three hundred sixty-five; or (b) converting the APR to a monthly rate and multiplying the monthly rate by the average daily unpaid principal balance of the account in the billing cycle;

4. not compound interest or charges by adding any unpaid interest or charges to the unpaid principal balance of the borrower's account; or

5. not include any other fees or charges of any kind, except as expressly permitted below.

In addition to the requirements listed above, open-end small loans, may:

1. provide for an annual fee for the privileges made available to the borrower under the open-end loan agreement, provided the annual fee does not exceed $50 and

2. include credit life insurance or credit accident and health insurance, subject to certain conditions and restrictions.

Prohibited Actions for Lead Generators. Under the bill, a person who provides information identifying a potential customer (i.e., lead generator) must not, in connection with lead generation activities:

1. initiate any outbound telephone call using an automatic telephone dialing system or an artificial or prerecorded voice without the prior express written consent of the recipient;

2. fail to transmit the lead generator's name and telephone number to any caller identification service in use by a consumer;

3. initiate an outbound telephone call to a consumer's residence between 9:00 p.m. and 8:00 a.m. local time at the consumer's location;

4. fail to clearly and conspicuously identify the lead generator and the purpose of the contact in its written and oral communications with a consumer;

5. fail to provide the ability to opt out of any unsolicited advertisement communicated to a consumer via an email address;

6. initiate an unsolicited advertisement via email to a consumer more than 10 business days after the receipt of a request from such consumer to opt out of such unsolicited advertisements;

7. use a subject heading or email address in a commercial email message that would likely mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the sender, contents, or subject matter of the message;

8. sell, lease, exchange or otherwise transfer or release the email address or telephone number of a consumer who has requested to opt out of future solicitations;

9. collect, buy, lease, exchange or otherwise transfer or receive an individual's Social Security or bank account number;

10. use information from a trigger lead to solicit consumers who have opted out of firm offers of credit under the federal Fair Credit Reporting Act;

11. initiate a telephone call to a consumer who has placed his or her contact information on a federal or state Do Not Call list, unless the consumer has provided express written consent;

12. represent to the public, through advertising or other means of communicating or providing information, including, but not limited to, the use of business cards or stationary, brochures, signs or other promotional items, that such lead generator can or will perform any other activity requiring licensure, unless such lead generator is duly licensed to perform such other activity or is exempt from such licensure requirements;

13. refer applicants to, or receive a fee from, any person who must be licensed but was not licensed as of the time the lead generator's services were provided; and

14. assist or aid and abet any person in the conduct of business requiring licensure when such person does not hold the license required.

Credit Insurance (§ 23)

As under existing law, a licensee may sell insurance to a Connecticut borrower at his or her request for (1) insuring the life of the persons obligated on a small loan and (2) providing accident and health insurance covering one person on a small loan. The bill allows the borrower to cancel such insurance at any time by giving written notice. Under current law, the borrow has a 15-day cancellation period after the loan has been made.

Open-end Small Loan. Under the bill, in the case of an open-end small loan, the additional charge for credit life insurance or credit accident and health insurance must be calculated in each billing cycle by applying the current monthly premium rate for such insurance, as determined by the Insurance Commissioner, to the unpaid balances in the account, using any of the methods for the calculation of loan charges described above. The licensee is prohibited from cancelling the credit life insurance or credit accident and health insurance written in connection with an open-end small loan because of the borrower's delinquency in making the required minimum payments on the loan, unless:

1. one or more of such payments is past due for a period of 90 days or more and

2. the licensee advances to the insurer the amounts required to keep the insurance in force during such period, which may be debited from the borrower's account.

Any cancellation shall be effective at the end of the billing cycle in which notice is received and the licensee must discontinue any further charges for the insurance.

Prohibited Practices (§§ 24 & 25)

Licensees. Under the bill, a small loan licensee is prohibited from:

1. causing a borrower, including a coborrower or guarantor, to owe at any time more than $15,000 in principal on one or more small loans;

2. inducing or permitting a borrower to split or divide any small loan or loans, or induce or permit a borrower to become obligated, directly or indirectly, under more than one loan contract at the same time, primarily for the purpose of obtaining rates or charges that would otherwise be prohibited by the small loan laws;

3. taking any: (a) confession of judgment; (b) power of attorney; (c) note or promise to pay that does not state the actual amount of the loan, the time period for which the loan is made, and the charges for such loan; or (d) instrument related to the loan in which blanks are left to be filled in after the loan is made;

4. offering the borrower any other product or service for which there is or will ever be any cost to the borrower in connection with a small loan unless (a) permitted by law, (b) authorized under another license, or by applicable exemption from any requirement for such licensure, to offer such product or services, or (c) if no separate license or exemption is required to

offer such product or services, the loan is authorized in advance, in writing, by the commissioner after he is satisfied that the other product or service is of such a character that the granting of such authority would not permit or easily result in evasion of the small loan statutes or any implementing regulations; or

5. renewing or refinancing a small loan unless the renewal or refinancing of the loan will result in a distinct advantage to the borrower, provided restoration to a contractually up-to-date condition does not, in itself, constitute a distinct advantage to the borrower.

Licensee or Anyone Required to be Licensed. The bill explicitly prohibits any licensee or anyone required to be licensed from directly or indirectly:

1. assisting or aiding and abetting any person in conduct prohibited by the small loan statutes;

2. employing any scheme, device or artifice to defraud or mislead any person in connection with a small loan;

3. making, in any manner, any false, misleading or deceptive statement or representation in connection with a small loan or engage in bait and switch advertising; or

4. engaging in any unfair or deceptive practice toward any person or misrepresenting or omitting any material information in connection with a small loan.

Main and Branch Offices (§ 26)

Under the bill, a small loan licensee, in each case where a license is required, must have a main office license and may have a branch office license. All offices must be located in the United States. Each main office must have a qualified individual, who is responsible for supervising all aspects of the licensee's small loan business. Each

branch must have a branch manager responsible for supervising all aspects of the branch's small loan business.

License Application Process (§ 27)

Processed Through The System. Under the bill, an application for a small loan license must be made and processed on "the system" (the Nationwide Mortgage Licensing System and Registry) in a form the commissioner prescribes. The form must contain information based on the commissioner's instruction or procedure and may be changed or updated as he deems necessary.

Criminal History Records Check. The applicant must furnish information concerning his or her identity, any control person, the qualified individual, and any branch manager. This information must include personal history and experience related to any administrative, civil, or criminal findings by any government jurisdiction. The commissioner may conduct a state and national criminal history records check of the applicant and its control persons, qualified individual, and branch manager. He may require the applicant to submit fingerprints to the FBI or other state, national, or international criminal databases and may require control persons, qualified individuals, and branch managers to furnish authorization for the system and for the commissioner to obtain an independent credit report from a consumer reporting agency.

Audited Financial Statements. Applicants also may be required to provide the system with an audited financial statement prepared by a certified public accountant in accordance with generally accepted accounting principles dated not later than ninety days after the end of the applicant's fiscal year. Such financial statement must include a balance sheet, income statement, statement of cash flows and all relevant notes. If the applicant is a start-up company, only an initial statement of condition is required.

Application Deemed Abandoned. The commissioner may determine an application for a small loan license abandoned if the

applicant fails to respond to any request for information required by the bill or any adopted regulations within 60 days. The commissioner must notify the applicant on the system of this provision.

An application filing fee paid before the date an application is deemed abandoned is not refunded. Abandonment of an application does not preclude the applicant from submitting a new license application.

License Fees (§ 28)

Under the bill, each applicant for a small loan license must pay, through the system, a $400 license fee and any other required fees or charges. Each license expires at the close of business on December 31 of the year in which the license was approved unless it is renewed, in which case it expires at the close of business on December 31 of the following year. Under current law, an initial application fee is $800 for a biennial license which expires on September 30 of the odd year following its issuance. Under current law, the application fee is $400 if filed less than a year before it would expire.

Under the bill, a renewal application must be filed between November 1 and December 31 of the year in which the license expires and the renewal fee is $400 plus any other required fees or charges. Under current law, the renewal fee is $800. There is a $100 late fee under current law.

Under the bill, the commissioner must automatically suspend a license if the system indicates that a required payment was returned. The commissioner must give the licensee notice of the automatic suspension, pending proceedings for revocation or refusal to renew, and an opportunity for a hearing, and require the licensee to take or refrain from taking action as the commissioner deems necessary.

Application and renewal fees are nonrefundable.

Investigation and Approval or Denial (§ 29)

Investigation of Applicant. Upon the license applicant filing the

required application and fee, the commissioner must investigate the following facts. The commissioner may not issue a license unless he finds that the:

1. experience, character and general fitness of the applicant and its control persons, qualified individual and any branch manager are satisfactory;

2. applicant's activities are for the convenience and advantage of the consumers it seeks to serve;

3. applicant has the required minimum $50,000 in available funds; and

4. applicant and its control persons and any qualified individual and branch manager have not made a material misstatement in the application.

If the commissioner fails to make such findings, the commissioner cannot issue a license and must notify the applicant of the denial and the reasons for the denial.

Application Denial. The commissioner may deny an application if the applicant, its control persons, qualified individual, or branch manager have demonstrated a lack of financial responsibility. Under the bill, a person shows that he or she is not financially responsible when he or she shows a disregard in the management of his or her own financial condition. A determination that a person has not shown financial responsibility may include:

1. current outstanding judgments, except judgments solely as a result of medical expenses;

2. current outstanding tax liens or other government liens and filings;

3. foreclosures during the three years preceding the date of application; or

4. a pattern of seriously delinquent accounts within the previous three years.

The commissioner also may deny an application based on the history of criminal convictions of the applicant, its control persons, qualified individual, or branch manager.

Minimum Available Funds Required. An applicant must have a minimum of $50,000 continuously available for each licensed location. This may include cash or lines of credit.

Renewal Standards. To renew a small loan license, an applicant must meet the minimum standards for an initial license, and pay all required fees for renewal of the license and any outstanding examination fees or other moneys the commissioner requires.

Withdrawal and Surrender of License. A license application withdrawal is effective when the commissioner accepts the request on the system.

Within 15 days after a licensee ceases to be a small loan lender in the state, such licensee must surrender its license on the system for each location in which the licensee has ceased to be a small loan lender.

Failure to Renew. If a license expires due to the licensee's failure to renew, the commissioner may institute a revocation or suspension proceeding or issue an order suspending or revoking such license within one year after the expiration date.

A small loan license remains effective until it is surrendered, revoked, suspended, or expires.

Commissioner's Approval for Changes (§ 30)

Under the bill, small loan licenses are not assignable or transferable. Any proposed change in the control persons requires advance notice, filed on the system at least 30 days before the effective date of the change. Any change to the control persons requires the commissioner's

approval.

No licensee may use any name other than its legal name or a fictitious name where these have been approved by the commissioner. A licensee is prohibited from any activity requiring a small loan license under any other name or at any other place of business than that named in the license. Any proposed change in a licensee's name or to the licensee's place of business requires an advance change notice filed on the system at least 30 days before the effective date of the change. Any change to the licensee's name or place of business requires the commissioner's approval.

Updating Information in the System (§ 31)

Under the bill, a licensee must file with the system any change in the license information most recently submitted or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the change in the information not later than 15 days after the licensee has reason to know of it.

A licensee must file with the system or, if the information cannot be filed on the system, directly notify the commissioner, in writing, of the occurrence of any of the following developments not later than 15 days after the licensee had reason to know of it:

1. filing for bankruptcy or the consummation of a corporate restructuring of the licensee;

2. filing of a criminal indictment against the licensee in any way related to the licensee's activities or receiving notification of the filing of any criminal felony indictment or felony conviction of any of the licensee's control persons or qualified individual or branch manager;

3. receiving notification of a license denial, cease and desist order, suspension or revocation procedures, or other formal or informal action by any governmental agency against the licensee and the reasons for it;

4. receiving notification of the initiation of any action by the U.S. attorney general or any state attorney general and the reasons for it;

5. receiving notification of a material adverse action with respect to any existing line of credit or warehouse credit agreement;

6. receiving notification of any of the licensee's control persons, qualified individual, or branch manager filing or having filed for bankruptcy; or

7. a decrease in the $50,000 available funds required by the bill.

Advertising (§ 32)

Unique Identifier. Under the bill, the unique identifier of any small loan licensee must be clearly shown on the licensee's small loan application forms and all of the licensee's solicitations or advertisements, including business cards or Internet websites, and any other documents as determined by the commissioner.

Licensee Advertising. Under the bill, a licensee's advertising:

1. must not include any statement that it is endorsed in any way by this state, but may include a statement that it is licensed here;

2. must not include any statement or claim which is deceptive, false, or misleading;

3. must be retained for one year from the date of its use; and

4. must otherwise conform to the requirements of the small loan statutes and related regulations.

Record Keeping and Retention (§ 33)

The bill changes the record keeping and record retention requirements for small loan licensees.

Retention Period. Under the bill, each small loan licensee must

keep adequate books and records at the place of business specified in the license in such form and in such manner as the commissioner prescribes and must preserve all books, accounts, and records for the following time periods:

1. if the licensee offered, solicited, brokered, directly or indirectly arranged, placed, found, or generated leads for a small loan, at least two years after the date it engaged in such activity or

2. if the licensee made, owns, or services a small loan, at least two years after the date the licensee (a) no longer owns the small loan or (b) has made the final entry on the small loan.

Commissioner's Inspection of Books and Records. Small loan licensees must make their books and records available at the office specified in the license or send the books and records to the commissioner by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt, not later than five business days after requested to do so by the commissioner. Upon request, the commissioner may grant a licensee additional time to make such books and records available or send them to the commissioner.

Reporting Through The System. Licensees must complete any reports of their condition required by the system. Any such condition reports shall be accurately and timely filed on the system according to the due dates and formats required by the system.

Until the information can be captured by a system-based report, each licensee must furnish annually, on or before January 30, a sworn statement of the condition of the business as of the preceding December 31, together with such other information and statements as the commissioner may require.

License Suspension and Revocation (§ 34)

Conditions Necessary for Revocation or Suspension of License. As under existing law, the commissioner may suspend,

revoke, or refuse to renew any small loan license or take any other action for any reason that would be sufficient grounds for the commissioner to deny an application for such license. Under the bill, the commissioner may also do so if he finds that the licensee or any control person of the licensee, qualified individual, branch manager with supervisory authority, trustee, employee, or agent of such licensee has done any of the following:

1. made any material misstatement in the application;

2. committed fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information, including, but not limited to, any disclosures required by regulations;

3. violated any of the provisions of the bill, any regulations adopted accordingly or any other law or regulation applicable to the conduct of its business; or

4. failed to perform any agreement with a licensee or a borrower.

The commissioner may take action whenever (1) it appears that a violation has occurred, (2) the violation is due to an act or omission such person knew or should have known would contribute to such violation, or (3) any licensee has failed to perform any agreement with a borrower, committed any fraud, misappropriated funds or misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any of the material particulars of any small loan transaction to anyone entitled to such information.

Removal of Violator. The commissioner may order a licensee to remove any individual from office and from employment or retention as an independent contractor in the small loan business in this state whenever the commissioner finds after investigating that such individual: (1) has violated any regulations adopted pursuant to the

small loan statutes or (2) for any reason that would be sufficient grounds for the commissioner to deny a license. The commissioner must do so by sending a notice to such individual by registered or certified mail, return receipt requested, or by any express delivery carrier that provides a dated delivery receipt. The notice is deemed received by such individual on the earlier of the date of actual receipt or seven days after mailing or sending.

Notice. The notice must include:

1. a statement of the time, place, and nature of the hearing;

2. a statement of the legal authority and jurisdiction under which the hearing is to be held;

3. a reference to the particular sections of the general statutes, regulations, or orders alleged to have been violated;

4. a short and plain statement of the matters asserted; and

5. a statement indicating that such individual may file a written request for a hearing on the matters asserted not later than 14 days after receipt of the notice.

Hearing. If a hearing is requested within the time specified in the notice, the commissioner must hold a hearing upon the matters asserted in the notice unless such individual fails to appear at the hearing. After the hearing, if the commissioner finds that any of the necessary grounds exist with respect to such individual, the commissioner may order a licensee to remove the individual from office and from any employment in the small loan business in this state. The commissioner may do the same if the individual fails to appear at the hearing.

If the commissioner finds that the protection of borrowers requires immediate action, the commissioner may suspend any such individual from office and require such individual to take or refrain from taking an action or actions that will, in the opinion of the commissioner, carry

out the purposes of this bill, by incorporating a finding to that effect in the suspension notice. The suspension or prohibition becomes effective upon receipt of the notice and, unless stayed by a court, remains in effect until the entry of a permanent order or the dismissal of the matters.

Temporary Order to Cease Business. The commissioner may issue a temporary order to cease business under a license if the commissioner determines that the license was issued erroneously. The commissioner must give the licensee an opportunity for a hearing. The temporary order becomes effective when the licensee receives it and, unless set aside or modified by a court, remains in effect until the effective date of a permanent order or dismissal of the matters asserted in the notice.

Commissioner's Oversight (§§ 35 & 36)

As under existing law, the bill gives the commissioner broad oversight of small loan licensees and the authority to adopt regulations he deems necessary to administer and enforce the small loan statutes. In order to carry out his duties under the small loan laws, the commissioner, among other things, may (1) accept and rely on examination or investigation reports made by other state officials, (2) accept audit reports from an independent certified public accountant, and (3) use, hire, contract, or employ public or privately available analytical systems.

BACKGROUND – The System

The "system" is the Nationwide Mortgage Licensing System and Registry developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of the finance services industry. It (1) may be referred to as NMLS, NMLSR, or any other name or acronym as may be assigned and (2) is owned and operated by the State Regulatory Registry LLC, or any successor or affiliated entity (CGS § 36a-2).

§ 37 — TENANTS' SECURITY DEPOSITS

Notice to Tenant About Escrow Account

Under the bill, the landlord must provide each tenant with a written notice stating the name and address of the financial institution at which the tenant's security deposit is being held and the amount of such deposit. The landlord must do so within 30 days after (1) receiving the security deposit from the tenant or the tenant's previous landlord or (2) transferring the security deposit to another financial institution or escrow account.

Interest Payment

By law, residents or tenants generally forfeit any interest otherwise payable to them for the month where they are delinquent in paying their monthly rent for more than 10 days. Under current law, a resident or tenant does not forfeit such interest if, as part of the rental agreement, a late charge is imposed for failing to pay rent within a statutorily specified time period. The bill eliminates the requirement that the late charge must be part of the rental agreement and payment must be within a certain timeframe specified in statute.

The bill imposes a minimum $10 penalty on a landlord who fails to pay the tenant the accrued interest on a security deposit. Under the bill, such a landlord is liable for the greater of $10 or twice the accrued interest. Under current law, such a landlord is liable for twice the amount of the accrued interest. The bill defines “accrued interest” as interest due on a security deposit, compounded annually to the extent applicable.

Commissioner's Jurisdiction

The bill further limits the commissioner's jurisdiction when the landlord has a good faith claim for actual damages of which the tenant received written notice. Under the bill, the commissioner does not have jurisdiction over a landlord's failure to pay the tenant interest accrued on the security deposit when required to do so but has a good faith claim of actual damages. Under current law, this is the case for

situations where the landlord refuses or fails to return all or part of the tenant's security deposit.

EFFECTIVE DATE: July 1, 2016

§§ 38-42 — DEPOSIT INDEX

Under the bill, "deposit index" is used in determining the interest paid on certain deposits, including tenants' security deposits; claims with the treasurer related to abandoned property; security deposits with public service companies, electric suppliers, telephone companies, and certified telecommunications providers; certain loans with annual interest rates not greater than the deposit index; and mortgage-related escrows.

The bill specifies that the deposit index is (1) the average of the national rates for savings deposits and money market deposits for the last week in November of the prior year as published by the Federal Deposit Insurance Corporation in accordance with 12 CFR § 337.6, as amended from time to time or (2) if the corporation no longer publishes these rates, the average of substantially similar national rates for the last week in November of the prior year as published by a federal banking agency. Under current law, the deposit index for each calendar year is equal to the average rate paid on savings deposits by insured commercial banks as last published in the Federal Reserve Board bulletin in November of the prior year.

By law, the commissioner must determine the deposit index for each calendar year and publish it in the department's news bulletin by December 15 of the prior year. Under the bill, he must also publish the deposit index on the department's internet website by such date.

Under the bill, the commissioner may also disseminate the deposit index and any information he deems appropriate in a manner designed to alert the parties that may rely on the deposit index. This includes issuing press releases and public service announcements, encouraging news stories in the mass media, and posting conspicuous

notices at financial institutions.

EFFECTIVE DATE: July 1, 2016

§§ 43 & 44 — TENANT PROTECTION - FORECLOSED PROPERTY

The bill makes permanent existing law's protections (see below) available to certain tenants of foreclosed homes by eliminating the December 31, 2017 sunset date.

The federal Protecting Tenants at Foreclosure Act (P. L. 111-22, Title VII) established these protections, which expired on December 31, 2014. However, PA 11-201 codified into state law the federal protections with a sunset date of December 31, 2017.

Tenants of Foreclosed Homes

By law, an immediate successor in interest to a foreclosed property takes the property subject to the rights of bona fide tenants as of the date absolute title vests in the successor in interest. A successor in interest must provide tenants with a notice to vacate 90 days before the notice is effective. Under the law, tenants with a lease entered into before absolute title vests in the successor must generally be allowed to remain until the end of the lease term but may be evicted under certain circumstances.

Section 8 Tenants

The law limits the circumstances under which an owner who is an immediate successor in interest to a property following foreclosure may terminate the lease of a Section 8 tenant (i.e., a tenant receiving assistance under the federal Housing Choice Voucher Program). By law, an owner may terminate the tenancy on the date of taking ownership if the owner (1) will occupy the unit as his or her primary residence and (2) provided the tenant with a notice to vacate at least 90 days before the notice's effective date.

By law, for foreclosures involving federally related mortgage loans or any residential property occupied by a Section 8 tenant, the immediate successor in interest takes the property subject to the (1)

lease between the tenant and prior owner and (2) housing assistance payments contract between the prior owner and the public housing agency that administers the program.

EFFECTIVE DATE: October 1, 2016

§ 45 — BANKING DEPARTMENT ASSESSMENTS

By law, the commissioner annually collects an assessment from Connecticut banks and credit unions, pro rata based on asset size, to cover the Banking Department's expenses.

The bill also allows the commissioner to assess licensed money transmitters and student loan servicers. The bill applies the assessment pro rata based on the dollar volume of money transmissions for money transmitters and student loans serviced for student loan servicers. The bill requires licensees to pay the assessment by the date the commissioner specifies. Failure to do so can result in an action against the person's license.

As with the existing assessment:

1. the commissioner collects it annually, on or after July 1 for each fiscal year beginning on July 1, and the assessment can cover a reasonable reserve for contingencies;

2. the commissioner can make assessments more frequently than annually; and

3. an assessment must be reduced by the amount of any surplus in the last year.

EFFECTIVE DATE: Upon passage

§ 46 — PROHIBITIONS ON MORTGAGE SERVICERS

Current law prohibits mortgage servicers from placing hazard, homeowners, or flood insurance on mortgaged property when the servicer knows or has reason to know the mortgagor has an effective policy for the insurance. The bill instead prohibits this when the

servicer knows or should have known of the mortgagor's policy.

EFFECTIVE DATE: October 1, 2016

§§ 47-54 — CONSUMER COLLECTION AGENCIES AND CREDITORS

Federal Income Tax Debt Collection Agencies (§§ 47-50)

The bill expands the consumer collection agency law to include persons that collect federal income tax on behalf of the U.S. Treasury Department. Thus, among other things, these persons must obtain a license from the Banking Department and meet specified bonding and recordkeeping requirements.

As under current law for other consumer collection agencies, the bill applies to agencies with a place of business in Connecticut, and to out-of-state businesses who (1) collect from in-state debtors on behalf of in-state creditors or for the agencies' own accounts or (2) regularly collect from in-state debtors on behalf of out-of-state creditors.

The bill applies the same exemptions from licensure and related requirements as existing consumer collection agency law (e.g., state-licensed attorneys and banks are exempt).

Prohibited Practices and Penalties. The bill subjects these consumer collection agencies to the applicable prohibitions, and corresponding penalties, that already apply to other such collection agencies. It makes a corresponding change by prohibiting them, when communicating with a federal income tax debtor, from (1) communicating in the name of an attorney or on an attorney's stationery or (2) preparing any forms or instruments that only attorneys may prepare.

By law, a consumer collection agency that engages in a prohibited practice is subject to license suspension or revocation (CGS § 36a-804). In addition, violators may be subject to a fine of up to $500, up to six months in prison, or both (CGS § 36a-810). These provisions also apply under the bill to agencies collecting federal tax debt.

As under existing law for other consumer debts, the bill allows anyone damaged by the wrongful conversion of federal income tax debtor funds received by a consumer collection agency to recover damages from the bond the agency filed with the banking commissioner.

Third Party Consumer Collection Agency (§ 51)

Currently, a third party consumer collection agency must deposit funds collected on behalf of others in one or more trust accounts maintained at a bank, Connecticut credit union, federal credit union, or out-of-state bank that maintains a branch in Connecticut. Under the bill, these institutions must be federally insured.

Legal Actions By Consumer Collection Agencies (§ 52)

The bill creates new procedural requirements for court cases brought by consumer collection agencies to collect consumer debts that they purchased from a creditor.

The bill specifies that these provisions do not apply to actions begun before the provisions take effect on October 1, 2016. These provisions also do not apply to debt purchased by a licensed mortgage lender under a recourse requirement. (In a recourse loan, in the event of nonpayment, the lender can pursue the debtor's assets that were not used as collateral for the loan.)

Evidence. Under the bill, before the court may enter judgment against the consumer debtor, the consumer collection agency must file with the court evidence establishing the amount and nature of the debt. The evidence must comply with Superior Court rules. It must include a copy of the assignment or other documentation indicating:

1. that the plaintiff owns the debt;
2. the original or charge-off account number, if any, which may be partially redacted to protect the debtor's privacy;
3. the name associated with the debt; and

4. if the debt has been assigned more than once, each assignor's name, address, and dates of ownership, and a copy of each assignment or other documentation that establishes the plaintiff's unbroken chain of ownership of the debt.

Default Judgment. Under the bill, a plaintiff who claims a default judgment must file a sworn affidavit with specified information in addition to the evidence required under Superior Court rules. The affidavit must list the name, address, and dates of ownership of each owner of the debt, from the charge-off creditor to the current owner.

The plaintiff must also attach documentation to the affidavit that fully substantiates the amount of the debt. For credit card debts subject to federal charge-off requirements, the following documents suffice to substantiate the debt, unless the court or court rules require additional documentation as described below:

1. a copy of the most recent monthly statement recording a purchase transaction, service billed, last payment, or balance transfer;

2. a statement reflecting the charge-off balance;

3. an itemization of the balance after the charge-off if different from the charge-off amount;

4. for consumer debts purchased on or after October 1, 2016, an additional monthly account statement sent to the consumer debtor while the account was active, which shows the debtor's name and address; and

5. any other statements that federal Consumer Financial Protection Bureau's regulations may require.

Redaction. The bill requires such consumer collection agencies to indicate when any items listed above have been redacted.

Additional Documentation. These provisions do not prevent the

court or Superior Court rules from requiring the (1) plaintiff to submit additional documentation or (2) plaintiff, plaintiff's authorized representative, or other affiants or counsel to appear before the court before the court renders judgment, if the court determines this is necessary.

Statute of Limitations in Actions by Creditors or Consumer Collection Agencies (§ 53)

The bill prohibits creditors, and consumer collection agencies that purchased debt, from initiating a cause of action to collect debt from a consumer when they know or reasonably should know that the applicable statute of limitations has expired.

Under the bill, when the statute of limitations has expired, any subsequent payment toward or written or oral affirmation of a debt by the consumer does not extend the limitations period.

For these purposes, a "creditor" is (1) anyone to whom a debt is owed by a consumer debtor if the debt results from a transaction occurring in the ordinary course of such person's business or (2) anyone to whom such a debt is assigned. But the term does not include a federal, state, or local department or agency or a consumer collection agency. (Presumably this definition of "creditor" applies, and not the definition in § 47. That section applies definitions to § 53 unless the context requires otherwise.)

Penalties for Creditor Violations (§ 54)

Under the bill, a creditor (as defined above) that violates specified prohibitions in the consumer collection agency law is liable to anyone harmed by such conduct in an amount equal to the sum of:

1. actual damages sustained;

2. if the person is an individual, any additional damages awarded by the court, up to $1,000; and

3. the costs incurred by a successful action to enforce liability,

including reasonable attorney's fees at the court's discretion.

Thee penalties already apply to creditors that use abusive, harassing, fraudulent, deceptive, or misleading representations, devices, or practices to collect or attempt to collect a debt.

EFFECTIVE DATE: October 1, 2016

§§ 55 & 56 — SECURITY FREEZES

The law allows a parent or legal guardian to request that credit reporting agencies place a security freeze on a minor child's credit report. The bill

1. limits a parent's or legal guardian's authority to request these freezes for credit reports of children under age 16, instead of age 18 as under current law and

2. eliminates a parent's or guardian's option to have an agency temporarily lift a freeze for a specific third party or for a period of time, thus only allowing a parent or guardian to request that the agency completely remove the freeze.

The bill provides that the law cannot be deemed to require an agency to provide a minor, parent, or legal guardian with a unique personal identification number, password, or similar devise to authorize release of a minor's credit report. But it provides that the minor, parent, or legal guardian must use the number, password, or device if applicable. By law, a parent or legal guardian making a request on a minor child's behalf must present the agency with identification and sufficient proof of authority to act for the child. (The law specifies what qualifies as sufficient proof.)

The bill specifies that any security freeze for an adult's or minor's credit report in effect on the bill's effective date (October 1, 2016) remains in effect until the adult or the minor's parent or guardian requests its removal.

EFFECTIVE DATE: October 1, 2016

§ 57 — LOOK-BACK PERIOD TO DISCOVER AND REPORT FRAUD

The law generally precludes a customer from asserting a claim of an unauthorized signature or alteration against a bank if he or she fails to discover and report the signature or alteration on a statement item within one year after the statement is available.

The bill specifically allows a bank and a customer to agree to a shorter time frame for discovering and reporting an unauthorized signature or alteration. Under the bill, as under existing law, such agreement does not negate the bank's responsibility for a lack of good faith or failure to exercise ordinary care or limit the measure of damages. The law already allows a bank and a customer to deviate from certain provisions of the Uniform Commercial Code, which governs commercial transactions, upon agreement of both parties.

EFFECTIVE DATE: Upon passage

§ 58 — POSSESSIONS INSIDE REPOSSESSED VEHICLES

Notice Requirements

By law, a contract holder who intends to repossess a motor vehicle may provide notice to the buyer of his or her intention to do so because of the buyer's default. If the holder chooses to provide the notice, it must be served personally or sent by registered or certified mail at least 10 days before the repossession and, among other things, inform the buyer when the vehicle will be taken and of his or her rights. Under the bill, the notice must also inform the buyer that he or she is responsible for removing all of his or her personal property from the vehicle before the date the repossession takes place.

Additionally, the bill requires the contract holder, within three days or repossessing a motor vehicle, and regardless of whether advance notice of the repossession was provided to the buyer, to send written notice to the buyer’s last known address:

1. that he or she is responsible for retrieving any personal property left in the vehicle, other than items turned over to law enforcement;

2. that he or she may, for at least 60 days after the repossession, retrieve any personal property remaining in the vehicle, unless the contract terms or holder specify a date at least 60 days after the repossession after which the buyer may no longer retrieve the property; and

3. of the contact and business hours information the buyer can use to make arrangements to retrieve his or her property.

Property Storage Fee

If the buyer retrieves some or all of his or her personal property more than 15 days after the repossession, the bill permits the contract holder, or the holder's agent maintaining custody of the personal property, to charge a reasonable storage fee of up to $25.

EFFECTIVE DATE: October 1, 2016

§§ 59-62 — STUDENT LOAN SERVICERS

The bill makes three changes to the laws that govern student loan servicers. It:

1. requires the banking commissioner to set service standards for licensed student loan servicers and post such standards by July 1, 2017 on the department's Internet website;

2. exempts entities that are exempt from student loan servicer licensure (e.g., banks and credit unions) from existing law's record retention requirements when a loan has been paid off or assigned; and

3. clarifies that existing law's (a) requirement that a student loan servicer make records available or send them to the commissioner within five business days of the commissioner's

request and (b) prohibited acts for student loan servicers, apply only to servicers licensed in the state.

By law, a "student loan servicer" is any person, regardless of location, responsible for servicing any student education loan to any student loan borrower.

The bill also allows the Banking Department's student loan ombudsman to evaluate how the state can move toward debt-free education. It specifies that on or before July 1, 2017, the student loan ombudsman may submit a report to the Banking Committee on (1) its recommendations and (2) the feasibility of establishing a program to require a student to sign a binding contract to pay a percentage of the student's adjusted gross income upon graduation, for a specified number of years, instead of taking out a student loan. (Since the ombudsman is not required to submit the report, the July 1, 2017 deadline has no legal effect.)

EFFECTIVE DATE: October 1, 2016, except the provisions on record retention exemption and clarifying existing law are effective July 1, 2016.

§ 63 — HOUSING AUTHORITY PILOT PROGRAM TO BUILD TENANTS' CREDIT

The bill requires the housing commissioner to create, within available appropriations, a three-year pilot program for local housing authorities to use rental payments as a means of building tenants' credit. By January 1, 2017, the commissioner must establish the program's parameters and designate up to three housing authorities in distressed municipalities that will record and report tenants' timely rent payments to nationally recognized consumer credit bureaus that agree to participate in the program.

Participating housing authorities must (1) receive technical assistance to implement rent-reporting software and track data on rental payments during the program and (2) train and support their staff on the program. Authority staff must conduct educational

briefings that allow tenants to learn about the program and its benefits.

The commissioner must submit to the Housing Committee a status report on the program by July 1, 2017, an interim report by January 1, 2018, and a final report by July 1, 2019.

By law, the Department of Economic and Community Development commissioner annually designates distressed municipalities (CGS § 32-9p). The most recent distressed municipalities list (2015) includes Ansonia, Bridgeport, Bristol, Derby, East Hartford, Enfield, Griswold, Hartford, Killingly, Meriden, Naugatuck, New Britain, New Haven, New London, North Canaan, Norwich, Plymouth, Preston, Putnam, Sprague, Stafford, Torrington, Waterbury, West Haven, and Windham.

EFFECTIVE DATE: October 1, 2016

§ 64 — FEE LIENS IN ESTATE SETTLEMENT PROBATE MATTERS

PA 15-5, June Special Session, made unpaid estate settlement probate fees a lien in favor of the state on any in-state real property included in the basis for fees. The bill specifies that the lien applies only to estates of individuals who died on or after January 1, 2015.

The bill also specifies the circumstances in which the lien is unenforceable against a third party. Under current law, the lien is not valid against a lienor, mortgagee, judgment creditor, or bona fide purchaser until notice of the lien is properly filed or recorded (e.g., in the town clerk's office). The bill refers instead to a bona fine purchaser or "qualified encumbrancer" and defines both terms, thus specifying the conditions in which a person can claim this status.

Under the bill, a bona fide purchaser is a party who takes a conveyance of real property in good faith, pays valuable consideration for it, and had no actual, implied, or constructive notice, that:

1. a holder or former holder of a title interest in the property died while still holding an interest in the property or

2. a former holder of such an interest died after transferring an interest in the property to a trustee of a revocable trust during the holder's lifetime, and the trustee still held the interest when the former holder died.

A "qualified encumbrancer" is a party who places a burden, charge, or lien on real property, in good faith, without actual, implied, or constructive notice as described above.

EFFECTIVE DATE: July 1, 2016

§§ 65-71 — INTERNATIONAL TRADE AND INVESTMENT CORPORATIONS

The bill authorizes the banking commissioner to issue licenses to international trade and investment corporations but does not require them to be licensed. The bill defines these corporations as a business entity or government agency approved or seeking approval from the U.S. Export-Import Bank (EXIM), Overseas Private Investment Corporation (OPIC), or U.S. Department of Agriculture as a lender under a financing guarantee program. These programs include EXIM loan guarantees for U.S. exporters, OPIC loan guarantees for investment projects in developing countries and emerging markets, and USDA loan guarantees for rural businesses.

The bill imposes licensing requirements, fees, and recordkeeping requirements. It also authorizes the commissioner to adopt regulations to administer the bill's provisions.

EFFECTIVE DATE: Upon passage

License Applications

The bill requires written license applications in a form acceptable to the commissioner. They must include the applicant's:

1. name and address and, if a corporation, its directors and officers;

2. assets and liabilities in a form required by the commissioner;

3. business plan; and

4. proof of compliance with applicable state and federal laws.

The bill allows the commissioner to require other information and exhibits.

The bill allows the commissioner to arrange state and national criminal history record checks for the applicant's principals, executive officers, and directors.

The bill requires the commissioner to investigate an applicant after receiving an application and the $2,500 license fee and authorizes him to issue a license if:

1. the applicant's net worth is at least $2.5 million and adequate to transact business as a licensee;

2. the directors and officers, if the applicant is a corporation, are of good character, competent to perform their functions with the applicant, and collectively adequate to manage the licensee's business;

3. it is reasonable to believe the applicant will comply with the bill and regulations adopted under it; and

4. licensing the applicant will promote public convenience and advantage.

Licenses expire on June 30 each year unless renewed. A license is not transferrable or assignable.

Fees

The bill requires license applicants to pay a nonrefundable $2,500 license fee. Licensees must pay a $1,000 renewal fee by June 20. Licensees also pay expenses of examinations, investigations, and regulations adopted under the bill.

Commissioner's Authority Over Licensees

If a check to pay a license fee is dishonored, the bill requires the commissioner to automatically suspend the person's license or a renewed license if it is not yet effective. The commissioner must notify the licensee of the (1) proceeding for revocation or refusal to renew and (2) opportunity for a hearing.

Within 15 days of surrendering a license or having it terminated, the bill requires a licensee to notify all its customers and confirm this notification with the commissioner.

The bill subjects licensees to the commissioner's investigative authority and sanctions for violating the banking laws, including authority to remove a person from office, issue cease and desist order, and impose civil penalties.

Transacting Business

The bill requires licensees to use their best efforts to provide financing with, and meet the expectations of, the federal financing guarantee programs with which they work. They must transact business in Connecticut in a safe and sound manner and maintain a safe and sound condition. The bill prohibits licensees, and their directors and officers if a corporation, from committing unsafe or unsound acts. Licensees must comply with all applicable state and federal laws and regulations.

Required Records and Annual Reports

The bill requires licensees to keep books, accounts, and records in a form and manner the commissioner may require by regulation or order. They must file annual reports with the commissioner within 90 days of the end of a fiscal year or later as determined by the commissioner in a regulation. Annual reports must include a:

1. financial statement with balance sheet, income or loss statement, and changes in capital accounts and financial position for the fiscal year or as of the end of the fiscal year, prepared by an

independent certified public accountant (CPA) according to generally accepted accounting principles;

2. report, certificate, or opinion from the CPA that he or she prepared the financial statement according to generally accepted accounting principles and will provide related working papers, policies, and procedures if the commissioner requests them; and

3. other information the commissioner requires.

The reports must also include a report on the:

1. number and aggregate dollar amount of loans made during the fiscal year;

2. geographic distribution, including by census tract if applicable, of borrowers receiving the loans;

3. percentage of loans to minority or women-owned U.S. and foreign businesses;

4. dollar amount of the licensee's loan portfolio at the end of the fiscal year;

5. percentage of the loan portfolio representing loans with payments more than 90 days past due at the end of the fiscal year;

6. number and dollar amount of loans in liquidation at the end of the fiscal year;

7. dollar amount of reserves for loan and lease losses; and

8. percentage of reserves to total loans and leases.

§ 72 — ABLE ACCOUNTS

By January 1, 2017, the bill requires the treasurer, within available appropriations and in consultation with the Department of Revenue

Services, to report to the Banking Committee on:

1. a way to convert an education savings plan (such as a Connecticut Higher Education Trust (CHET) account) into an Achieving a Better Life Experience (ABLE) account and

2. any appropriations or statutory changes needed to ensure the successful operation of the ABLE program.

The law requires the treasurer to establish a federally qualified ABLE program and administer individual ABLE accounts. The program must encourage and help eligible individuals and families save private funds to pay for qualifying expenses related to disability or blindness. To run the program, the law establishes the Connecticut ABLE Trust, administered by the treasurer, to receive and hold funds intended for ABLE accounts. It generally exempts money in the trust and interest earnings on it from state and local taxation and requires the state treasurer to ensure that funds are exempt from federal taxation pursuant to federal law.

EFFECTIVE DATE: Upon passage

§§ 73-92 & 94 — FORECLOSURES

The bill creates a new process whereby a court may enter a judgment of loss mitigation that allows (1) certain underwater mortgages to be modified without a junior lienholder's consent or (2) the mortgagor to satisfy his or her obligation by transferring the property using a transfer agreement. The judgment of loss mitigation option is available only to mortgagors with personal net liquid assets, excluding retirement and tax advantaged health savings plans, that are less than $100,000.

The bill also makes several changes to certain existing foreclosure prevention programs.

It modifies the foreclosure by market sale process by allowing a mortgagee (lender), under certain circumstances, to file a motion for

judgment of foreclosure by market sale within 30 days of receipt of a sales contract or the expiration or satisfaction of any contingencies. Among other things, it also eliminates certain mortgagee notice and affidavit requirements.

With regard to the existing foreclosure mediation program (see BACKGROUND), the bill authorizes mediators to excuse certain parties from mediation sessions. It also eliminates the:

1. restriction that disqualifies a mortgagor from the program when he or she consents to foreclosure by market sale and

2. requirement that a mortgagee provide a certificate of good standing to a mortgagor who has completed the mediation program.

The bill eliminates a requirement that lenders notify certain unemployed and underemployed homeowners of the availability of foreclosure protection.

It (1) prohibits a state marshal from carrying out a foreclosure-related eviction order sooner than five days after the court executes it and (2) requires the marshal to use reasonable efforts to find and notify a defendant of an eviction at least five days before notifying the town of the eviction.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

Judgment of Loss Mitigation (§§ 73-80 & 91)

The bill creates a new process whereby a court may enter a judgment of loss mitigation which allows (1) certain underwater residential mortgages to be modified without a junior lienholder's consent or (2) the mortgagor to satisfy all or part of his or her obligation by conveying the property using a transfer agreement. The bill does not prohibit the parties from consummating a consensual

mortgage modification or conveyance outside the judicial process.

The bill specifies that its provisions should not be construed as eliminating the debt or any judgment associated with a junior lienholder on the residential real property encumbered by the underwater mortgage.

Under the bill:

1. an "underwater mortgage" is one in which the debt associated with the mortgage, along with any senior lien, exceeds the fair market value of the property as determined by a court;

2. a "senior lien" is the first security interest placed on a property to secure payment of a debt or performance of an obligation before one or more junior liens; and

3. a "junior lien" is a security interest placed on a property to secure payment of a debt or performance of an obligation after a senior lien is placed on such property.

Mortgage Modification. Under the bill, if approved by the court through a judgment of loss mitigation, an underwater mortgage may be modified to increase the principal loan balance by the amount of any accrued interest, fees, and costs allowed by law, without (1) any junior lien holder's consent and (2) any loss of priority to the senior lien holder for the full amount of the modified loan.

Conveyance to Mortgagee. The bill allows a mortgagor of an underwater mortgage to satisfy all or part of his or her obligation to the mortgagee by conveying the residential real property to the mortgagee. The mortgagor may do so through a transfer agreement executed by both parties. The bill exempts such a transfer from the real estate conveyance tax. The transfer agreement must:

1. convey to the mortgagee all interests in the property except for any interests (a) reserved to the mortgagor in the agreement, (b) held by more senior mortgagees or lienholders, or (c) held by

junior lien holders not subject or party to the action;

2. consider a discharge of the mortgage after the mortgagor's satisfaction of the transfer agreement's condition;

3. consider the termination of any other interest in the property subordinate to the lienholder party to the transfer agreement following a judgment of loss mitigation; and

4. contain other provisions mutually agreeable to the mortgagor and mortgagee including, either party's cash contribution to the other or the execution of a promissory note by one party in favor of the other party.

Conveyance to a Third Party. The bill allows a mortgagor of an underwater mortgage to enter a transfer agreement to convey residential real property subject to the mortgage to a third party and, as a condition of the conveyance, pay less than the outstanding balance on the mortgage debt to the mortgagee. Such payment must satisfy all or part of the mortgagor's obligation to the mortgagee. The transfer agreement must be executed by the mortgagor and the mortgagee and must:

1. consider a transfer to the third party of all the mortgagor's interests in the property to the third party, except for interests (a) reserved to the mortgagor in the transfer agreement, (b) held by more senior mortgagees or lienholders, or (c) held by junior lienholders not subject or party to the action;

2. consider a discharge of the mortgage after the mortgagor's satisfaction of the transfer agreement's conditions;

3. consider the termination of any other interest in the property subordinate to the mortgagee following a judgment of loss mitigation; and

4. consider other provisions mutually agreeable to the mortgagor and mortgagee including, either party's cash contribution to the

other or the execution of a promissory note by one party in favor of the other party.

Judgment Following Transfer Agreement. Under the bill, 15 days after the return date of a pending foreclosure action, a mortgagee may file a motion for judgment of loss mitigation following a transfer agreement (described above). The bill does not (1) allow the court to enter a judgment without the express written consent of both the mortgagor and mortgagee or (2) require a mortgagee to consider consenting to such a judgment in foreclosure mediation. A party's failure to consent to a judgment of loss mitigation for any reason must not be a basis for a claim of bad faith.

Findings at the Hearing. Upon the motion of the mortgagee and with the mortgagor's consent, the court, after notice and a hearing, may enter a judgment of loss mitigation approving the modification or conveyance.

All parties to the action may participate in the hearing and the judgment is final for purposes of appeal. The issues at the hearing must be limited to:

1. a finding of the fair market value of the residential property, which may be determined by a written appraisal obtained by the mortgagee and performed by a licensed appraiser;

2. a finding of the outstanding balance of any priority liens on such property, to the extent necessary;

3. the debt owed to the mortgagee that is secured by the mortgage;

4. whether the mortgage is underwater; and

5. whether the contemplated transaction was agreed to in good faith for purposes of mitigation.

A hearing for a judgment of loss mitigation related to mortgage modification or the conveyance of property to a mortgagee must also

consider whether the parties to the contemplated transaction other than the mortgagee meet the financial requirements of a mortgagor (i.e., personal net liquid assets, excluding retirement and tax advantaged health savings plans, that are less than $100,000), which must be determined by (1) a financial statement submitted by the proposed mortgagor or mortgagors or (2) other financial information the court requires.

The bill prohibits the court from entering a judgment of loss mitigation unless it makes express findings that the mortgage is an underwater mortgage and the transaction was agreed to in good faith. For cases involving mortgage modification or the conveyance of property to a mortgagee, the court must also find that the mortgagor meets the financial requirements.

Effect of Judgment. The bill establishes the effect of a judgment of loss mitigation in cases involving mortgage modification or conveyance to mortgagees. In such cases, if the court enters a judgment of loss mitigation, immediately after the expiration of any applicable appeal period or after the judgment has been affirmed on appeal, as applicable, (1) the mortgage must be increased in accordance with the judgment and the lien of any junior lienholder subject or party to the action must be deemed subordinated to such mortgage, in the same order as existed before the subordination or (2) the conveyance to the mortgagee takes effect in accordance with the transfer agreement. If a conveyance to a mortgagee is later set aside or avoided due to the application of Chapter 11 bankruptcy provisions (see BACKGROUND), the judgment of loss mitigation must be set aside and all parties must retain the same interests in the property as existed before the judgment of loss mitigation, to the extent permitted under applicable bankruptcy laws.

In cases involving conveyance to a third party, if the court enters a judgment of loss mitigation, the conveyance to the third party must be ordered to take place by the date in the transfer agreement, which may be extended up to 60 days if the parties agree or longer as ordered by

the court after notice and a hearing.

Appeals. In the event of an appeal, the bill gives the mortgagor and the mortgagee discretion to withdraw consent to the foreclosure by loss mitigation. If either does so, the foreclosure of the mortgage may continue without any further restriction.

Title Conveyance and Recording. Within 30 days after a mortgage modification or conveyance to a mortgagee, the mortgagor and mortgagee must record the judgment of loss mitigation with the town clerk.

For conveyances to third parties, before recording the document conveying title to the third party, the mortgagor must submit the judgment of loss mitigation to the town clerk for recording. After mortgagee receives the funds and other consideration, specified in the transfer agreement, the mortgagee must file a satisfaction of judgment of loss mitigation with the court.

The bill does not prohibit (1) the parties from consummating a consensual mortgage modification or deed in lieu of foreclosure outside of the judicial process or (2) a consensual release of mortgage by a mortgagee for less payment of the full indebtedness secured by the mortgage.

Mortgagor's Petition to Enter Foreclosure Mediation. If the court does not enter a judgment of loss mitigation, the loan modification or property transfer described above may not be completed. At this point, the (1) mortgagor may petition for inclusion in the foreclosure mediation program and (2) mortgagee may request a judgment of foreclosure available under existing law, including strict foreclosure.

In addition to existing law's eligibility criteria for the mediation program, the mortgagor must not have substantially contributed to the events leading to the court's nonentry or other circumstances resulting in the nonentry. The court has discretion whether to grant the

mortgagor's petition. To do so, the court must find that (1) it is highly probable the parties will reach an agreement through mediation and (2) the petition is not motivated primarily by a desire to delay a judgment of foreclosure. The court must consider any testimony or affidavits the parties submit in support of or in opposition to the mortgagor's petition.

Foreclosure by Market Sale (§§ 81-84, 89 & 90)

By law, a mortgagee and a mortgagor may agree to pursue foreclosure by market sale, which is a foreclosure option that involves a court-approved sale of the property on the open market. The bill specifies that its provisions must not be construed as requiring either party to pursue a foreclosure by market sale or to consider a foreclosure by market sale in foreclosure mediation. The bill also specifies that failure of either party to consent to a foreclosure by market sale for any reason must not be a basis for a claim of bad faith.

Foreclosure Notice. By law, before beginning a mortgage foreclosure, a mortgagee must give notice by registered or certified mail with postage prepaid to the mortgagor at the address of the residential property secured by the mortgage. Current law requires that such notice include specified information related to foreclosure by market sale. For example, under current law, the notice must inform the mortgagor to contact a licensed real estate agent to discuss the feasibility of listing the property for sale through the foreclosure by market sale process. The bill eliminates the foreclosure notice requirements that relate to the market sale process.

Mortgagee Affidavit. The bill also eliminates the requirement that a mortgagee file an affidavit with the court, which, under current law, allows the mortgagee to continue the mortgage foreclosure without the restrictions or further requirements of the foreclosure by market sale option. Under current law, such an affidavit indicates that the notice described above was provided and either the mortgagor failed to elect foreclosure by market sale by the required date or discussions were initiated but specific circumstances existed, such as the mortgagee and

mortgagor were unable to reach a mutually acceptable agreement to proceed.

Motion for Judgment. Under the bill, if the mortgagee has already initiated a foreclosure action on the date when the sales contract was received or any contingencies satisfied or expired, then, within 30 days after the latest of such dates, the mortgagee must file a motion for judgment of foreclosure by market sale and attach the contract and appraisal to the motion.

Right of First Refusal Law Days. Under the law, within 30 days after the court renders a judgment of foreclosure by market sale, it must schedule "right-of-first-refusal law days," a specific day when each other person with a lien against the property (a subordinate lien holder) can pay the agreed-upon price in the purchase and sale contract to the person appointed to make the sale to preserve their equity interest in the property. Under current law, the court must schedule the days in inverse order of priority. The bill instead requires that it be done only in order of priority.

Title Conveyance. Under the law, the person appointed to make the sale must (1) execute the conveyance of the property and (2) bring the proceeds to court. The conveyance is valid against all parties and their privies (people having legal interest in the property). Under the bill, the conveyance is also valid against all parties subject to the action because of a lawsuit that was filed and recorded that concerns the title to or interest in the property (i.e., lis pendens).

Foreclosure Mediation Program (§§ 87, 88, 92 & 94)

The bill makes changes to certain components of the foreclosure mediation program.

Except as specified below, the following changes apply to foreclosure actions with return dates (date on which action must be taken) on or after July 1, 2009 for residential real property and on or after October 1, 2011 for real property owned by a religious

organization.

Notice. By law, the court must notify all appearing parties when it (1) assigns a case to mediation and (2) when a mediator determines that the mortgagor must participate in mediation. The court must schedule (1) a premediation meeting with the mediator and mortgagor and (2) the first mediation session with the mortgagee and mortgagor. The bill specifies that premediation meetings and mediation sessions must be scheduled with all mortgagors who are relevant and necessary to the mediation and to any agreement being contemplated in connection with the mediation.

Mediator and Mortgagor Mediation Meetings. The bill expands the conditions under which a mediator may excuse a mortgagor's attendance at meetings.

Under the bill, the mediator may excuse a mortgagor who shows good cause for nonattendance, such as (1) no longer owning the home because of divorce or a related deed transfer, (2) no longer living in the home, or (3) not being a necessary party to any agreement being contemplated in connection with the mediation.

Appearance at Mediation Sessions. The law requires the mortgagor and mortgagee to attend each mediation session in person with the ability to mediate. The law makes an exception for a party represented by counsel under certain circumstances, but current law requires that the mortgagor attend the first mediation session in person. The bill eliminates the requirement that a represented mortgagor attend the first mediation session in person

For foreclosure actions with a return date of July 1, 2008 through June 30, 2009, the bill allows the mediator to excuse a mortgagor from attending mediation meetings if the mortgagor shows good cause that his or her presence is not needed to further the interests of mediation, such as he or she:

1. no longer owns the home due to divorce or a related deed

transfer,

2. is no longer living in the home, or

3. is not a necessary party to any agreement being contemplated in connection with the mediation.

For foreclosure actions with return dates on or after July 1, 2009 for residential real property and on or after October 1, 2011 for real property owned by a religious organization, the bill allows the mediator to excuse a mortgagor from mediation meetings if the mortgagor shows good cause for nonattendance, as discussed above.

Eligibility. Under current law, a mortgagor who consents to a foreclosure by market sale is generally ineligible for the foreclosure mediation program. The bill eliminates this disqualification and makes corresponding conforming changes.

Certificate of Good Standing. The bill eliminates a requirement for a mortgagee, upon request, to provide a certificate of good standing to a mortgagor who has completed the foreclosure mediation program and remained current on payments for three years.

Foreclosure Protection (§ 85)

By law, certain unemployed or underemployed mortgagors facing foreclosure may apply for protection from foreclosure within 25 days of the start of the court action date. The court may stop the proceedings for up to six months and order a restructuring of the mortgage debt. Generally, the property must be the homeowner's primary residence for at least two years.

The bill eliminates the requirement that a lender, at the start of a foreclosure action, notify homeowners of the availability of foreclosure protection. Under current law, if a lender fails to do so and the homeowner was eligible for such foreclosure protection, the court, on its own motion or upon the homeowner's request, may issue a stay on the action for 15 days to allow the homeowner time to apply for

foreclosure protection.

Foreclosure Evictions (§ 86)

The bill prohibits a state marshal from carrying out a foreclosure-related eviction order sooner than five days after the court executes it.

It also requires the state marshal to use reasonable efforts to find and notify the occupant of an eviction at least five days before notifying the town. Existing law does not impose a time limit on that requirement.

By law, a state marshal enforcing an eviction order following a mortgage foreclosure or similar court action must notify the town's chief executive officer 24 hours before carrying out the order. The notice must state the (1) date, time, and location of the eviction; (2) type and amount of the items to be removed; and (3) designated place for storage.

BACKGROUND – Chapter 11 Bankruptcy

Federal law governs bankruptcy matters. Chapter 11 is one type of bankruptcy and it is used mostly by businesses. In a Chapter 11 bankruptcy case, the business continues to operate but its creditors and the court must approve a repayment plan and the businesses budget. A trustee is appointed and collects the payments, pays the creditors, and ensures that the business complies with the repayment plan.

BACKGROUND – Foreclosure Mediation Program

The state's foreclosure mediation program determines whether parties can reach an agreement that will avoid foreclosure. The program uses the judicial branch's foreclosure mediators to conduct mediation sessions between the mortgagee (lender) and the mortgagor (borrower) in a statutorily prescribed timeframe. The program is funded within available appropriations.

§ 93 — EXPEDITED FORECLOSURE WORKING GROUP

By October 1, 2016, the bill requires the Banking Committee, within

available appropriations and in consultation with representatives of state agencies and departments, financial institutions, mortgage servicers, attorneys with experience in foreclosure law and municipalities, to convene a working group to recommend methods to expedite foreclosures of abandoned properties. The working group must submit its findings to the committee by January 1, 2017.

EFFECTIVE DATE: July 1, 2016

COMMITTEE ACTION

Banking Committee

Joint Favorable Substitute
Yea 18 Nay 0 (03/15/2016)

Judiciary Committee

Joint Favorable
Yea 31 Nay 0 (04/15/2016)